THE CANADA TEMPERANCE ACT

As Amended up to and inclusive of the Session of 1914

R.S.C., 1906, CHAP. 152
7-8 EDW. VII, CHAP. 71
9-10 EDW. VII, CHAP. 58
4-5 GEO. V, CHAP. 54

COMPILED FROM STATUTES OF CANADA

TORONTO:
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CHAPTER 152.

An Act respecting the Traffic in Intoxicating Liquors

SHORT TITLE.

1. This Act may be cited as the Canada Temperance Act, R.S., c. 106, s. 1. Short title.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,— Interpretation.

(*a*) 'intoxicating liquors' includes every spirituous or malt liquor, and every wine, and any and every combination of liquors or drinks that is intoxicating, and any mixed liquor capable of being used as a beverage, and part of which is spirituous or otherwise intoxicating; "Intoxicating liquors."

(*b*) 'electors' means persons qualified and competent to vote at an election of a member of the House of Commons in the county or city in respect to which the expression is used; "Electors."

(*c*) 'form' means a form in the schedule of this Act; "Form."

(*d*) 'county' includes every town, township, parish and other division or municipality, except a city, within the territorial limits of the county, and also a union of counties united for municipal purposes; "County."

(*e*) as respects the province of Ontario, or any other province in which provisional temporary judicial districts exist, 'county' includes such provisional or temporary judicial districts; "County" in Ontario.

(*f*) as respects the provinces of Manitoba, Saskatchewan and Alberta, "county" means the electoral districts therein as designated by the *Representation Act;* "County" in Manitoba.

(*g*) as respects the province of British Columbia, 'county' means every county into which the province of British Columbia is divided by the 'Counties Definition Act,' chapter 51 of the Revised Statutes of British Columbia, and amending Acts, or other Act of the Legislature of British Columbia dividing the province into counties, and includes every town, township, village and other division or municipality except a city municipality within the terri- "County" in B.C.

"City."

torial limits of such county; and 'city' means any city municipality or city as defined by the 'Municipal Clauses Act,' chapter 32 of the statutes of British Columbia of 1906, or any amendment thereof, or by any Act substituted therefor. 9-10 Edw. VII. c. 58, s. 1; 4-5 Geo. V. c. 53, s. 2; R.S. 1906, c. 152, s. 2.

Attendance of agents.

3. Whenever in Part I. of this Act any expressions are used, requiring or authorizing any act to be done, or from which it may be inferred that any act or thing is to be done, in the presence of the agent of the persons interested, such expressions shall be deemed to refer to the presence of such agents as are authorized to attend, and as have, in fact, attended at the time and place where such act and thing is being done. R.S., c. 106, s. 24.

DIVISION OF ACT.

Into 3 parts.

4. This Act is divided into three Parts. Part I. relates to proceedings for bringing Part II. into force. Part II. relates to the prohibition of traffic in intoxicating liquors. Part III. relates to penalties and prosecutions for offences against Part II. R.S., c. 106, s. 3.

PART I.

PROCEEDINGS FOR BRINGING PART II. OF THIS ACT INTO FORCE.

Mode of Obtaining Poll.

Petition to Governor in Council.

5. Proceedings for the bringing of Part II. of this Act into force in any county or city shall be commenced by petition to the Governor in Council which may be in form A or in words to the same effect. R.S., c. 106, s. 4.

Form of notice of desire to have votes of electors taken.

6. Such petition may be embodied as in form A in a notice in writing addressed to the Secretary of State of Canada and signed by electors of the county or city, to the effect that the signers desire that the votes of all such electors be taken for and against the adoption of the petition. R.S., c. 106, s. 5.

Deposit of notice.

7. Such notice embodying such petition may be deposited for public examination,—

In general.

(*a*) in the office of the sheriff or registrar of deeds of or in the county or city to which it relates, and where in any county there is more than one office of a registrar of deeds, in any one of such offices;

In provisional or temporary districts.

(*b*) in the province of Ontario, or in any other province in which provisional or temporary judicial districts exist, so far as relates to such provisional or temporary judicial

districts, in the registry office, or in one of the registry offices, if more than one, for the respective provisional or temporary judicial districts;

(c) in the provinces of Manitoba, Saskatchewan, and Alberta, in any registry office or in any sheriff's office in the respective electoral districts, or if there be no such registry office or sheriff's office then in such place as may be designated by the Secretary of State for the purpose. In Manitoba, Saskatchewan, Alberta.

2. In the province of British Columbia, in any land registry office or in any sheriff's office in the county or in the city to which it relates. R.S. 1906, c. 152, s. 7. 9-10 Edw. VII., c. 58, s. 2. 4-5 Geo. V. c. 53, s. 2. (c). Deposit of notice in B.C.

8. There shall be laid before the Secretary of State, together with or in addition to every such notice embodying such petition, evidence,— Evidence.

(a) that there are appended to it the genuine signatures of at least one-fourth in number of all the electors in the county or city named in it; One-fourth of electors.

(b) that such notice has been deposited, as provided by the last preceding section, for public examination by any person for ten days previous to its being so laid before the Secretary of State; and Deposit for examination.

(c) that two weeks previous notice of such deposit has been given in two newspapers published in or nearest to the county or city to which such notice embodying such petition relates, and by at least two insertions in each such paper. R.S., c. 106, s. 6. Notice of deposit.

2. If in any city or county or any part thereof there are no voters' lists which could be used for the purposes of this Act the petition shall have appended to it the genuine signatures of one-fourth in number of such persons as are voters or who possess the qualifications of voters, other than being on the voters' lists, for such city or county. Signatures to petition.

3. For the purposes of this section the number of voters in any city or county in which or in any part of which there are no voters' lists which could be used for the purposes of this Act shall be:— Interpretation: Number of voters.

(a) Where there are voters' lists in force for part of such city or county, the number of voters on such lists together with the number of voters who were on the last voters' lists that were in force in the rest of such city or county.

(b) Where there are no voters' lists in force in such city or county, then the number of voters that were on the last voters' lists that were in force in such city or county; or

(c) Where there are no voters' lists in force in the whole or any part of any city or county, such number as is

established to the satisfaction of the Secretary of State as being the total number of persons who possess the qualifications of voters for such city or county, other than that of being on a voters' list. R.S. 1906, c. 152, s. 8. 4-5 Geo. V. c. 53, s. 3.

Case in which proclamation may issue.

9. If it appears by evidence to the satisfaction of the Governor in Council that any such notice has appended to it the genuine signatures of one-fourth or more of all the electors in the county or city named in it, and has been duly deposited as aforesaid, after notice as aforesaid, the Governor in Council may issue a proclamation under this Part. R.S., c. 106, s. 7.

Proclamation to be published.

10. Such proclamation shall be inserted at least three times in the *Canada Gazette,* and three times in the official gazette of the province in which the county or city is situate. R.S., c. 106, s. 8.

Contents.

11. In such proclamation there may be set forth,—

Notice.

(*a*) the notice in full, with the proposed petition embodied in it;

Signatures.

(*b*) the number of the signatures to the notice;

Day of poll.

(*c*) the day on which the poll for taking the votes of the electors for and against the petition will be held;

Hours.

(*d*) that such votes will be taken by ballot between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of that day;

Name of returning officer.

(*e*) the name of the sheriff, registrar or other persons appointed returning officer for the purpose of taking, on that day, the votes of the electors for and against the petition, and of afterwards summing up the same and making a return of the result to the Governor in Council.

Appointment of deputies.

(*f*) the power of the returning officer to appoint a deputy returning officer, at and for each polling place or station,

Appointment of representatives.

(*g*) the place where, and the day and hour when, the returning officer will appoint persons to attend at the various polling stations, and at the final summing up of the votes on behalf of the persons interested in, and promoting or opposing respectively the adoption of, the petition;

Date and place of final summing up.

(*h*) the place where, and the day and hour when, the votes of the electors will be summed up, and the result of the polling declared by the returning officer;

Date when Part II. will go into effect.

(*i*) the day on which, in the event of the petition being adopted by the electors, Part II. of this Act will go into force in the county or city in question; and

Further particulars.

(*j*) any such further particulars, with respect to the taking and summing up of the votes of the electors, as the Governor in Council sees fit to insert therein. R.S., c. 106, s. 9.

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12. No polling of votes under this Act shall be held in any city or county on the same day that any election takes place in such county or city for a member to serve in the Parliament of Canada, or in any provincial legislature. R.S., c. 106, s. 9. No polling on day of any other election.

Returning Officers and their Duties.

13. Either the sheriff or the registrar of deeds, or one of the sheriffs, or one of the registrars of deeds, for the county or city or for a portion of the county or city in which the poll is to be held, or the nearest sheriff or registrar, or any other person, may be appointed returning officer in any case under this Part. Who may be appointed.

2. The naming of any person in any proclamation issued under this Part shall be a sufficient appointment, and sufficient evidence of the appointment of such person as returning officer, for the purposes mentioned in the proclamation. R.S., c. 106, s. 10. Evidence of appointment.

14. On receiving a copy of the proclamation, the returning officer shall forthwith endorse thereon the date on which he receives the same; and, before taking any further action thereon, he shall take, before a justice of the peace, the oath of office in form B. R.S., c. 106, s. 11. Oath of returning officer.

15. All persons qualified to vote at an election of a member of the House of Commons, in the county or city to which any proclamation issued under this Act relates, on the day on which a poll is held in compliance with such proclamation, and no others, shall be qualified to vote and to have their votes polled on that day, for or against the adoption of the petition mentioned in such proclamation. R.S., c. 106, s. 12. Qualification of voters.

16. The returning officer shall ascertain the number or probable number of persons qualified to vote in each town, parish, township, ward, local municipality, or other locality in the county, or ward in the city, where voters are so entitled to vote,— Ascertainment of qualified voter.

(*a*) from the lists of voters which, under the provisions of this Part, are to be used at the polling of votes; From lists.

(*b*) in any county or city where there are voters entitled to vote but no lists of voters, from such information as is within his reach. From information.

2. If such town, parish, township, ward, local municipality or other locality or ward, has not been subdivided for electoral purposes into polling districts by the legislature, or by the local authorities under the legislation of the province wherein such county or city is situate, or by the returning officer at the To subdivide localities into polling districts.

last previous election of a member of the House of Commons in the county or city, the returning officer shall subdivide such town, parish, township, ward, local municipality, or other locality in the county, or ward in the city, into polling districts in a convenient manner, so that there shall be at least one polling district for every two hundred voters; and he shall also fix a polling station in a central and convenient place in each polling district.

Fix polling station.

Additional polling places.

3. The returning officer may, in his discretion, grant such additional polling places in such polling districts as the extent of the district and the remoteness of any body of its voters from the polling place renders necessary, although the voters thereof are less than the number hereinbefore specified. R.S., c. 106, s. 13.

Notices indicating polling places and limits of polling districts.

17. The returning officer shall, at least eight days before the day on which the poll for taking the votes of the electors for and against the petition is to be held, by a notice under his hand, indicate with reference to the holding of such poll, the several polling stations fixed by him, and the territorial limits to which they shall respectively apply, and shall cause the said notice to be posted up at four of the most prominent and conspicuous places in each polling district. R.S., c. 106, s. 14.

Deputy returning officer to be appointed.

18. Every person so appointed returning officer shall,—

(*a*) appoint, by a commission under his hand, in form C, one deputy returning officer for each polling district, comprised in the county or city, who shall, before acting as such take, before the returning officer or a justice of the peace, the oath of office, in form D.

List of voters to be furnished.

(*b*) furnish each deputy returning officer with a copy of the list or of such portion of the list of voters as contains the names arranged alphabetically, of the electors qualified to vote at the election of a member of the House of Commons, at the polling station in the polling district for which he is appointed, certified by himself or by the proper custodian of the lists from which such copies are taken;

Ballot boxes to be supplied.

(*c*) deliver to each deputy returning officer, eight days at least before the polling day, a ballot box to receive the ballot papers of the voters, which shall be made of some durable material, with one lock and key, and a slit or narrow opening in the top, and so constructed that the ballot papers may be introduced therein, but cannot be withdrawn therefrom, unless the box is unlocked;

Ballot papers to be furnished.

(*d*) furnish each deputy returning officer with a sufficient number of ballot papers to supply the number of voters on the list of such polling district, and with the necessary materials for voters to mark their ballot papers;

(*e*) furnish to each deputy returning officer, at least ten copies of printed directions, for the guidance of voters in voting. Directions to be furnished.

2. Such ballot papers shall be of the same description, and as nearly as possible alike. Ballot papers alike.

3. The deputy returning officer shall, before or at the opening of the poll, on the day of polling, cause such printed directions to be posted up in some conspicuous places outside of the polling station, and also in each compartment of the polling station. R.S., c. 106, s. 15. Posting up of directions.

19. The lists of voters which would be used at an election of a member of the House of Commons, in the same district at the same time, shall be the lists of voters which shall be used at every polling of votes under the provisions of this Act. List of voters to be used.

2. The returning officer shall obtain the different lists of voters, or copies or extracts thereof, from the registrars, city or town clerks, clerks of the peace, clerks of the municipalities or such other officers as are, by law, the proper custodians of such lists or of duly certified duplicates or copies thereof. R.S., c. 106, s. 16. To be obtained from custodian.

3. For the purposes of this Act the sixty days and the one year referred to in sections 6 and 7, respectively, of the *Dominion Elections Act* shall be calculated from the date of the Proclamation issued under the provisions of section 10 of this Act, but a voters' list that has been in force less than sixty days may be used where there is no previous list or where the previous list was prepared more than one year before the date of the Proclamation. What voters' lists are to be used.

4. Whenever in any province where voters' lists are used there is no voters' list for any city or county, or any part thereof, which can be used for the purposes of this Act, the Governor in Council may direct that such list or lists be prepared, and may, for the purpose of preparing and giving effect to such new voters' lists, appoint all necessary officers and confer upon them all necessary power, and in the preparation of such lists the provisions of the laws of the province regulating the preparation and revision and bringing into force of the provincial voters' lists and the provisions of the *Dominion Elections Act,* relating to the preparation, printing and certifying of voters' lists shall as far as possible be observed and followed, and all expenses incurred shall be paid by the Minister of Finance out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada. Voters' lists, how to be made where none exist.

5. Where a voters' list is prepared under the provisions of this section, it shall only be used for the purposes of this Act. R.S. 1906, c. 152, s. 19. 4-5 Geo. V. c. 53, s. 4. Use of lists restricted.

Ballot boxes to be made.

20. Whenever the returning officer fails to furnish to the deputy returning officer in any polling district the ballot box within the time prescribed by this Part, such deputy returning officer shall cause one to be made. R.S., c. 106, s. 17.

Form of ballot paper.

21. The ballot of each voter shall be a printed paper, in this Part called a ballot paper, with a counterfoil, and the ballot paper and counterfoil shall be according to form E. R.S., c. 106, s. 18.

Form of directions.

22. The printed directions to be furnished to the deputy returning officers shall be according to form F. R.S., c. 106, s. 19.

Agents.

Promoting adoption.

Opposing adoption.

23. At the place and time named for that purpose in the proclamation, the returning officer shall, by an instrument in writing signed by him, appoint as agents on behalf of the persons interested in and desirous of promoting the adoption of the petition, from and out of such persons as apply to him to be so appointed, one person to attend at each polling station, and two persons to attend at the final summing up of the votes, and as agents on behalf of the persons interested in, and desirous of opposing the adoption of the petition, one person to attend at each polling station, and two persons to attend at the final summing up of the votes. R.S., c. 106, s. 20.

Form of oath of person to be appointed agent.

24. Before any person is so appointed, he shall make and subscribe before the returning officer or any deputy returning officer, a declaration in form G to the effect that he is interested in and desirous of promoting, or opposing, as the case may be, the adoption of the petition. R.S., c. 106, s. 21.

Agent to produce appointment.

25. Every person so appointed, before being admitted to the polling station, or to the final summing up of the votes, as the case may be, shall produce to the deputy returning officer his written appointment. R.S., c. 106, s. 22.

Appointment and oath of substitute for

26. In the absence of any person authorized, as aforesaid, to attend at any polling station, or at the final summing up of the votes, any elector in the same interest as the person so absent may, upon making and subscribing before the deputy returning officer at the polling station, or the returning officer at the final summing up of the votes, as the case may be, a declaration in form G, be admitted to the polling station, or to the final summing up of the votes, as the case may be, to act for the person so absent. R.S., c. 106, s. 23.

27. The non-attendance of any agents or agent in whose presence any act is by this Part required or authorized to be done, at any time or place specified by this Part in that behalf, shall not, if the act or thing is otherwise duly done, invalidate, in any wise, such act or thing. R.S., c. 106, s. 24. Attendance of agents.

The Poll.

28. On the day and at the hour fixed by proclamation, a poll shall be held at each polling station in the county or city to which the proclamation relates, and the votes shall be taken by ballot. R.S., c. 106, s. 25. Poll. Votes by ballot.

29. The poll shall be held in each polling district in a room or building of convenient access, with an outside door for the admittance of the voters, and having, if possible, another door through which they may leave after having voted; and one or two compartments shall be made within the room, so arranged that each voter may be screened from observation, and may, without interference or interruption, mark his ballot paper. R.S., c. 106, s. 26. Descriptions of buildings in which poll held.

30. Each deputy returning officer shall open the poll assigned to him at the hour of nine of the clock in the forenoon, and keep the same open until five of the clock in the afternoon; and shall, during that time, receive in the manner hereinafter prescribed, the votes of the electors duly qualified to vote at such polling place. R.S., c. 106, s. 27. Hours for opening and closing polls.

31. In addition to the deputy returning officer, such persons as have been appointed or admitted under this Act as agents, and no others, shall be permitted to remain in the room where the votes are given, during the time the poll remains open. R.S., c. 106, s. 28. Who may be present at the polling of the votes.

32. Every agent, on being admitted to the polling station, shall take an oath to keep secret the space on the ballot paper in which any voter marks his ballot paper in his presence, as hereinafter required. Agent's oath of secrecy.

2. Such oath shall be in form H. R.S., c. 106, s. 29. Form.

33. At the hour fixed for opening the poll the deputy returning officer shall, in the presence of such of the electors and agents as are present, open the ballot box and ascertain that there are no ballots or other papers in the same, after which the box shall be locked, and the deputy returning officer shall keep the key thereof. R.S., c. 106, s, 30. Opening, examining and locking ballot box.

Asking electors to vote.

34. Immediately after the ballot box is locked, as aforesaid, the deputy returning officer shall call upon the electors to vote. R.S., c. 106, s. 31.

Place of voting.

35. Each elector shall vote at the polling station of the polling district in which he is qualified to vote and at no other.

Opportunity to vote.

2. The deputy returning officer shall provide for the admittance of every elector into the polling station, and see that he is not impeded or molested at or about the polling station. R.S., c. 106, s. 32.

Deputy returning officer or agent entitled to vote.

36. The returning officer, on the request of any elector entitled to vote at one of the polling stations, who is appointed deputy returning officer, or who is appointed to attend as agent at a polling station other than the one where he is entitled to vote, shall give to such elector a certificate that such elector is entitled to vote at such polling of votes at the polling station where such elector is stationed during the polling day.

Certificate.

2. On the production of such certificate such elector shall have the right to vote at the polling station where he is placed during the polling day, instead of at the polling station of the polling district where he would otherwise have been entitled to vote.

Right under certificate.

3. No such certificate shall entitle any such elector to vote at such a polling station unless he has been actually engaged as such deputy returning officer or agent during the day of polling. R.S., c. 106, s. 33.

Entering polling station.

37. Electors desiring to vote shall be introduced, one at a time for each compartment, into the room where the poll is held.

Proceedings on voting.

2. Every such elector so introduced shall declare his name, surname and addition, which shall be entered or recorded in the voters' list to be kept for that purpose by the deputy returning officer, and if the same is found on the list of electors for the polling district of such polling station, he shall receive from the deputy returning officer a ballot paper, with the initials of such deputy returning officer previously placed by him on the back thereof in such manner that when the ballot is folded they can be seen without opening it, and with a number corresponding to that opposite the voter's name on the voters' list placed by him on the counterfoil thereof. R.S., c. 106, s. 34.

Elector may be sworn.

38. Such elector, if required by the deputy returning officer or by any elector or agent, as aforesaid, present, shall, before receiving his ballot paper, take the oath or oaths of qualification required by the laws in force in the province where the election

is held from a voter at an election of a member of the House of Assembly of that province, with the words *House of Commons of Canada* substituted for *House of Assembly,* or with such other change as is required to make the oath applicable to the election of a member of the House of Commons of Canada.

Administering oath.

2. The deputy returning officer is authorized to administer such oath or oaths.

Deputy returning officer to instruct elector.

3. The deputy returning officer shall instruct every elector voting, how and where to affix his mark, and how to fold his ballot paper, but without inquiring or seeing whether the elector intends to vote for or against the petition, except in cases where the elector is unable to read, or is incapable by blindness, or other physical cause, from voting in the manner prescribed by this Part without the assistance provided herein in that behalf. R.S., c. 106, s. 34.

Voting where no lists.

39. If the county or city is one, in or for which the election law of the province where such county or city is situate does not require lists of voters to be made to entitle them to vote, any elector claiming his ballot paper shall declare his name, surname, addition and qualification, which shall be entered on a list kept for that purpose by the deputy returning officer.

Oath of qualification.

2. Before receiving his ballot paper such elector may be required by the deputy returning officer, or any elector or agent present to take the oath of qualification provided for in the last preceding section, to be administered by the deputy returning officer. R.S., c. 106, s. 35.

Mode of voting.

40. The elector on receiving the ballot paper, shall forthwith proceed into one of the compartments of the polling station, and there mark his ballot paper, by making a cross in any part of the upper space if he votes for the petition, and in any part of the lower space if he votes against the petition, after which he shall fold it up, so that the initials on the back can be seen without opening it, and hand it to the deputy returning officer, who shall without unfolding it, ascertain by examining his initials and the number upon the counterfoil, that it is the same ballot he furnished to the elector.

Counterfoil to be destroyed.

2. The deputy returning officer shall then detach and destroy the counterfoil, and immediately, and in the presence of the elector, place the ballot paper in the ballot box. R.S., c. 106, s. 36.

Electors to vote without delay.

41. Every elector shall vote without undue delay, and shall quit the polling station so soon as his ballot paper has been put into the ballot box. R.S., c. 106, s. 37.

As to ballot paper.

42. No elector shall be allowed to take his ballot paper out of the polling station. R.S., c. 106, s. 38.

Voter unable to mark his ballot paper.

43. The deputy returning officer, on application of any voter who is unable to read or is incapacitated by blindness or other physical cause from voting in the manner prescribed by this Act, shall assist such voter by marking his ballot paper in the manner directed by such voter, in the presence of the sworn agents or of the sworn electors representing them in the polling station, and of no other person, and by placing such ballot paper in the ballot box. R.S., c. 106, s. 39.

Such voter to be sworn.

44. The deputy returning officer shall require the voter making such application, before voting, to make oath of his incapacity to vote without such assistance, in the form following:—

Form of oath.

'I solemnly swear (*or if he is one of the persons entitled by law to affirm in civil cases,* solemnly affirm) that I am unable to read and to understand the ballot papers so as to mark the same (*or* that I am incapacitated by physical cause from voting *as the case may be*) without the assistance of the deputy returning officer.' R.S., c. 106, s. 39.

Interpreter in certain cases.

45. Whenever the deputy returning officer does not understand the language spoken by any elector claiming to vote, he shall swear an interpreter, who shall be the means of communication between him and such elector, with reference to all matters required to enable such elector to vote. R.S., c. 106, s. 39.

Lists of such voters to be kept.

46. The returning officer shall cause a list to be kept of the names of voters whose ballot papers have been marked with the assistance as aforesaid of the deputy returning officer, stating the reason why each ballot paper was so marked.

Reason for marking to be entered.

2. The deputy returning officer shall enter opposite the names of the voters whose ballots have been so marked, in addition to what is required in the next following section, the reason why each ballot paper was marked by him. R.S., c. 106, s. 39.

Entry of names of electors voting on voters' list.

47. The deputy returning officer shall enter on the voters' list to be kept by him in form I., opposite the name of each elector voting, the word *Voted,* as soon as his ballot paper has been deposited in the ballot box; and he shall enter on the same list the word *Sworn* or *Affirmed* opposite the name of each elector to whom the oath or affirmation of qualification has been administered, and the words *Refused to be sworn,* or *Refused to affirm,* opposite the name of each elector who has refused to take the oath or to affirm. R.S., c. 106, s. 40.

48. When no lists of voters are required by the law in force in the county or city for which the voting takes place, the deputy returning officer shall cause the name, surname, and addition of every voter to be entered on a list to be made and kept for that purpose. Entry when no lists required by law.

2. He shall enter on such list the word *Voted,* or *Sworn,* or *Affirmed,* or *Refused to be sworn,* or *Refused to affirm,* as the case may be, as provided in the case of lists furnished by the returning officer. R.S., c. 106, s. 41. Entries.

49. No voter who has refused to take the oath or affirmation of qualification required as aforesaid by this Act, when requested so to do, shall receive a ballot paper or be admitted to vote. R.S., c. 106, s. 42. Voter refusing to swear or affirm not to vote.

50. No person shall vote more than once at the same polling of votes under the provisions of this Act. R.S., c. 106, s. 43. No elector to vote more than once.

51. If a person, representing himself to be a particular elector named on the register or list of voters, applies for a ballot paper after another person has voted as such elector, the applicant, upon taking the oath in form J and otherwise establishing his identity to the satisfaction of the deputy returning officer, shall be entitled to receive a ballot paper, on which the deputy returning officer shall put his initials, together with a number corresponding to a number entered on the list of voters opposite the name of such voter, and shall be entitled to vote in like manner as any other elector. Second vote on the same name.

2. The name of such voter shall be entered on the list of voters, and a note shall be made of his having voted on a second ballot issued under the same name, and of the oath or affirmation of identification having been required and made, as well as of any objections made by any of the agents. R.S., c. 106, s. 44. Entry on list.

52. A voter who has inadvertently dealt with the ballot paper given him in such manner that it cannot be conveniently used, may, on delivering the same to the deputy returning officer, obtain another ballot paper in the place of that so delivered up. R.S., c. 106, s. 45. Second ballot paper delivered when.

Proceedings after close of the Poll.

53. Immediately after the close of the poll, the deputy returning officer shall, in the presence of the agents, and if the agents are absent, then in the presence of at least three electors, Counting votes at close of poll.

open the ballot box and proceed to count the number of votes given for and against the petition.

What ballots are to be rejected.

2. In so doing he shall reject all ballot papers which have not been supplied by the deputy returning officer, and all those upon which there is any writing or mark by which the voter could be identified: Provided, however, that no ballot paper shall be rejected on account of any writing, number or mark placed thereon by any deputy returning officer.

Exception.

Proceedings as to remainder.

3. He shall count all the other ballot papers and keep lists of the number of votes given for, and of the number of votes given against the petition, and of the number of rejected ballot papers, and shall put all the ballot papers indicating the votes given for, and the votes given against the petition, respectively, into separate envelopes or parcels, and those rejected, those spoiled and those unused, respectively, into separate envelopes or parcels, and shall endorse all such parcels, so as to indicate their contents, and put them into the ballot box. R.S., c. 106, ss. 46 and 47. 4-5 Geo. V. c. 53, s. 5.

Objection to ballot papers.

54. The deputy returning officer shall take a note of any objection made by any agent or any elector present, to any ballot paper found in the ballot box, and shall decide any question arising out of the objection.

Decision final.

2. The decision of such deputy returning officer shall be final, subject only to reversal on a scrutiny as hereinafter provided. R.S., c. 106, s. 48.

Each objection to be numbered and initialed

55. Each objection to a ballot paper shall be numbered, and a corresponding number placed on the back of the ballot paper and initialed by the deputy returning officer. R.S., c. 106, s. 49.

Statement of accepted ballot papers.

56. The deputy returning officer shall make out a statement of the accepted ballot papers, of the number of votes given each way, of the rejected ballot papers, of the spoiled and returned ballot papers, and of such as are unused and returned by him;

Copy.

and he shall make and keep a copy of such statement, and inclose in the ballot box the original statement, together with

Papers to be inclosed in ballot box.

the voters' list and certificate, at the foot of each list, of the total number of electors who voted on such list, and such other lists and documents as have been used at such election.

Delivery to returning officer.

2. The ballot box shall then be locked and sealed, and shall be delivered to the returning officer, who shall collect or receive the same.

Or to person appointed to receive the same.

3. In case the returning officer shall be unable to collect or receive the ballot boxes, the same shall be collected and received by, and delivered to one or more persons specially appointed for that purpose by the returning officer, and shall on delivering

the ballot boxes to the returning officer, take the oath in form K. R.S., c. 106, s. 50.

57. The deputy returning officer shall take the oath in form L, which shall be annexed to the statement aforesaid. R.S., c. 106, s. 51. Oath to be annexed to statement.

58. The several deputy returning officers, on being requested so to do, shall deliver to each of the agents, or in the absence of such agents, to the electors present, a certificate of the number of votes given in each interest, and of the number of rejected ballot papers. R.S., c. 106, s. 52. Certificates delivered to agents.

Summing up the Votes and Returns.

59. The returning officer, at the place, day and hour, appointed by the proclamation, and after having received all the ballot boxes, shall proceed to open them in the presence of the agents, if present, and of at least three electors if the agents are not present, and to add together the number of votes given in each interest, from the statements contained in the ballot boxes returned by the deputy returning officer. R.S., c. 106, s. 53. Returning officer shall sum up statements.

60. If the ballot boxes are not all returned on the day fixed for adding up the number of votes given, the returning officer shall adjourn the proceedings to a subsequent day which shall not be more than a week later than the day originally fixed, for the purpose of adding up the votes. R.S., c. 106, s. 54. Adjournment if ballot boxes not returned.

61. If the ballot boxes, or any of them, have been destroyed or lost, or for any other reason are not forthcoming, on or before such subsequent day, the returning officer shall ascertain the cause of the disappearance of such ballot boxes, and shall call on each of the deputy returning officers whose ballot boxes are missing, or on any other person having the same, for the lists, statements and certificates, or copies of the lists, statements and certificates, of the number of votes given in each interest, required by this Act, the whole of which shall be verified on oath administered by the returning officer. Statements and certificates used for summing up votes.

2. If such lists or statements, or any of them, or copies thereof, cannot be obtained, the returning officer shall ascertain by such evidence as he is able to obtain, the total number of votes given in each interest at the several polling places, and he shall make his return accordingly, and shall mention specially in his report to be sent with the return, the circumstances accompanying the disappearance of the ballot boxes, and the mode by which he ascertained the number of votes given in each interest. R.S., c. 106, s. 55. When not obtainable other evidence used.

Petition not adopted.

62. If one-half or more of all the votes polled are against the petition, the same shall be deemed not to have been adopted; and the returning officer shall make his return to the Governor in Council accordingly. R.S., c. 106, s. 56.

Petition adopted.

63. If more than half of all the votes polled are for the petition, the same shall be deemed to have been adopted; and the returning officer shall make his return to the Governor in Council accordingly. R.S., c. 106, s. 57.

Return.

64. Within two weeks after the summing up of the votes, if no judge has appointed a day or place within the county or city for entering into a scrutiny of the ballot papers, as hereinafter provided, and in case of a scrutiny being entered into, then forthwith after the judge has determined whether the majority of the votes given was or was not in favour of the petition, the returning officer shall transmit his return to the Secretary of State, and shall send with it a report of his proceedings, in which he shall make any observations he thinks proper as to the state of the ballot boxes or ballot papers as received by him.

After scrutiny.

2. In the event of a judge having determined, after a scrutiny of the ballot papers, that the majority of the votes given was or was not in favour of the petition, such return shall be based upon, and shall be conformable to such decision. R.S., c. 106, s. 58.

What shall be transmitted with return.

65. The returning officer shall also transmit to the Secretary of State, with his return, the original statements, inclosed in the ballot boxes, of the several deputy returning officers, of the accepted ballot papers, of the number of votes given each way, of the rejected ballot papers, of the spoiled and returned ballot papers, and of the unused and returned ballot papers, together with the voters' lists used in the several polling districts, and any other lists and documents used or required at such election, or which have been transmitted to him by the deputy returning officers.

How transmitted.

2. Such return and report shall be sent through the post office, by registered letter or parcel. R.S., c. 106, s. 59.

Property in ballot boxes.

66. The property of the ballot boxes, ballot papers, and marking instruments procured for, or used at any polling of votes under this Act, shall be in His Majesty. R.S., c. 106, s. 60.

Scrutiny.

Application to judge.

67. Within one week after the returning officer has summed up the votes and declared the result of the voting, any elector may apply for a scrutiny upon petition,—

(*a*) in the province of Quebec, to any judge of the Superior Court ordinarily discharging his duties in any judicial district in which the county or city is situate, in whole or in part; In Quebec.

(*b*) in the province of British Columbia, to a judge of the Supreme Court of that province, or to a judge of the county court of any county or district within which the county or city is situate, in whole or in part; In British Columbia.

(*c*) in any other province, to the judge of the county court of any county or district within which the county or city for which the polling of votes takes place is situate, in whole or in part. R.S. 1906, c. 152, s. 67. 4-5 Geo. V. c. 53, s. 2 (2) (c). In any other province.

68. The petitioner shall give such notice of the application, and to such persons as the judge directs, and shall show, by affidavit to the judge, reasonable grounds for entering into a scrutiny of the ballot papers. Notice to be given.

2. The petitioner shall also enter into a recognizance to His Majesty before the judge in the sum of one hundred dollars, with two sureties, to be allowed as sufficient by the judge upon affidavit of justification, in the sum of fifty dollars each, conditioned to prosecute the petition with effect, and to pay any costs which are adjudged against the petitioner, or shall deposit with the prothonotary or clerk of such court the sum of one hundred dollars as a security for such costs. And recognizance entered into. Or deposit.

3. The judge shall thereupon appoint a day and place within the county or city for entering into the scrutiny. Appointment.

4. At least one week's notice of the scrutiny shall be given by the petitioner to such persons as the judge directs. R.S., c. 106, s. 61. Notice of scrutiny.

69. On the day and at the hour and place appointed, the returning officer shall attend before the judge, with the ballot papers in his custody, and the judge upon inspecting the ballot papers and hearing such evidence as he deems necessary, and on hearing the parties, or such of them as attend, or their counsel, shall, in a summary manner, determine whether the majority of the votes given was, or was not, in favour of the petition to the Governor in Council. R.S., c. 106, s. 62. Proceedings at scrutiny.

70. The decision of the judge shall be final, and the costs shall be in his discretion, or he may apportion the costs as to him seems just. R.S., c. 106, s. 63. Decision final. Costs.

Secrecy of Voting.

71. Every officer and agent in attendance at a polling place shall maintain and aid in maintaining the secrecy of the voting Provisions for maintaining.

at such polling place; and shall not communicate, before the poll is closed, to any person any information as to whether any person on the voters' list has or has not applied for a ballot paper, or voted at that polling place.

No interference.

2. No officer or agent, and no person whosoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain, at the polling place, information as to how any voter at such polling place is about to vote, or has voted.

No information to be communicated.

3. No officer or agent or other person shall communicate, at any time, to any person, any information obtained at a polling place, as to how any voter at such polling place is about to vote or has voted. R.S., c. 106, s. 64.

Secrecy at counting of votes.

72. Every officer and agent in attendance at the counting of the votes shall maintain, and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain, at such counting, or communicate any information obtained at such counting, as to how any vote is given in any particular ballot paper. R.S., c. 106, s. 64.

Inducing voters to display their ballots.

73. No person shall, directly or indirectly, induce any voter to display his ballot paper after he has marked the same, so as to make known to any person how he has so marked his ballot paper. R.S., c. 106, s 64.

Preservation of peace and good order.

Officers to be conservators of the peace.

74. Every returning officer and every deputy returning officer, from the time he takes the oath of office until the day after the summing up of the votes, shall be a conservator of the peace, invested with all the powers appertaining to a justice of the peace. R.S., c. 106, s. 65.

May require assistance and swear in special constables.

75. Such returning officer or deputy returning officer may require the assistance of justices of the peace, constables or other persons present, to aid him in maintaining peace and good order at such polling; and may also, on a requisition made in writing by any agent, or by any two electors, swear in such special constables as he deems necessary. R.S., c. 106, s. 66.

May arrest disturbers of the peace.

76. Such returning officer or deputy returning officer may arrest or cause to be arrested, by verbal order, and place in the custody of any constables or other persons, any person disturbing the peace and good order at the polling, and may cause such person to be imprisoned under an order signed by him until any hour on that day, not later than the close of the poll. R.S., c. 106, s. 67.

May demand offensive weapons.

77. The returning officer or deputy returning officer may during any day whereon any poll is begun, holden or proceeded with, require any person within half a mile of the polling station, to deliver to him any firearm, sword, staff, bludgeon, or other offensive weapon in the hands or personal possession of such person. R.S., c. 106, s. 68.

Entering polling district armed.

78. Except the returning officer or his deputy, or one of the constables or special constables appointed by the returning officer or his deputy, for the orderly conduct of the poll and the preservation of the public peace thereat, no person who has not had a stated residence in the polling district for at least six months next before the day of such polling, shall come, during any part of the day upon which the poll is to remain open, into such polling district armed with offensive weapons of any kind as firearms, swords, staves, bludgeons or the like.

Approaching polling station armed.

2. No person being in such polling district shall arm himself during any part of the day with any such offensive weapons, and thus armed, approach within the distance of one mile of the place where the poll for such polling district is held, unless called upon by lawful authority so to do. R.S., c. 106, s. 70.

Treating electors forbidden.

79. No person shall, at any polling, either provide or furnish drink or other refreshments at the expense of such person, to any elector during such polling, or pay for, procure or engage to pay for, any such drink or other refreshment. R.S., c. 106, s. 71.

Flags not to be furnished as a party flag.

80. No person shall furnish or supply any ensign, standard, or set of colours, or any other flag, to or for any person or persons whomsoever, with the intent that the same should be carried or used in the county or city on any day of polling under this Act, or within eight days before such day, or during the continuance of such polling, by such person or any other person, as a party flag to distinguish the bearer thereof and those who follow the same as the supporters of the opinions entertained, or supposed to be entertained by such person, in either interest.

Party flags not to be carried.

2. No person shall for any reason, carry or use any such ensign, standard or set of colours or other flag as a party flag in either interest, within any county or city on the day of any such polling, or within eight days before such day, or during the continuance of such polling. R.S., c. 106, s. 72.

Sale or gift of liquor on polling day prohibited.

81. No intoxicating, spirituous, or fermented liquors or strong drinks shall be sold or given at any hotel, tavern or shop or other place within the limits of any polling district, at any time during the day on which any poll is begun, holden, or proceeded with. R.S., c. 106, s. 74.

Offences and Penalties.

Refusing to furnish lists.

82. Every registrar, city or town clerk, clerk of the peace, clerk of a municipality or other officer, by law the proper custodian of any voter's list or certified duplicates or copies thereof, provided by this Part to be obtained by a returning officer, who omits or refuses to furnish such list, copies or extracts therefrom, within a reasonable time, to any returning officer requiring the same, shall incur a penalty not exceeding two thousand dollars and not less than two hundred dollars. R.S., c. 106, s. 16.

Penalty.

Taking ballot paper out of polling station.

83. Every elector who takes any ballot paper, delivered to him by a deputy returning officer for the purpose of using the same in voting, out of the polling station in which the same is so delivered to him, shall incur a penalty not exceeding two hundred dollars and not less than fifty dollars. R.S., c. 106, s. 38.

Penalty.

Officers or agents.

84. Every officer and agent in attendance at a polling place,—

Violating secrecy.

(*a*) who does not maintain and aid in maintaining the secrecy of the voting at such polling place; or,

Communicating information.

(*b*) who communicates, before the poll is closed, to any person any information as to whether any person on the voters' list has or has not applied for a ballot paper, or voted at that polling place; or,

Interfering with voter.

(*c*) who interferes with, or attempts to interfere with a voter when marking his vote, or otherwise attempts to obtain, at the polling place, information as to how any voter at such polling place is about to vote or has voted; or,

Communicating information.

(*d*) who communicates, at any time, to any person, any information obtained at a polling place as to how any voter at such polling place is about to vote or has voted; or,

Violating secrecy as to votes counted.

(*e*) being in attendance at the counting of the votes, does not maintain and aid in maintaining the secrecy of the voting or attempts to ascertain at such counting how, or communicates any information obtained at such counting as to how, any vote is given in any particular ballot paper;

Penalty.

shall be liable to a penalty not exceeding two hundred dollars, and in default of payment, to imprisonment for any term not exceeding six months with or without hard labour. R.S., c. 106, s. 64.

85. Everyone who,—

Inducing voter to display ballot paper.

(*a*) directly or indirectly, induces any voter to display his ballot paper after he has marked the same, so as to make known to any person how he has so marked it; or,

(*b*) interferes with, or attempts to interfere with, a voter when marking his vote, or otherwise attempts to obtain, at the polling place, information as to how any voter at such polling place is about to vote, or has voted; or, Interfering with voter at vote.

(*c*) communicates, at any time, to any person, any information obtained at a polling place as to how any voter at such polling place is about to vote, or has voted; Communicating information.

shall be liable to a penalty not exceeding two hundred dollars, and in default of payment to imprisonment for any term not exceeding six months with or without hard labour. R.S., c. 106, s. 64. Penalty.

86. Every person, having in his hands or personal possession any firearm, sword, staff, bludgeon or other offensive weapon, within half a mile of any polling station, during any day whereon any poll is begun, holden or proceeded with, who refuses to deliver such weapon to any returning officer or deputy returning officer requiring delivery to him of the same, shall be liable to a penalty not exceeding one hundred dollars, and in default of payment to imprisonment for a term not exceeding three months. R.S., c. 106, s. 68. Refusal to deliver up offensive weapon. Penalty.

87. Every person who sells or gives at any hotel, tavern or shop, or other place within the limits of any polling district any intoxicating, spirituous or fermented liquors or strong drinks, at any time during the day on which any poll is begun, holden, or proceeded with, shall, for each offence be liable to a penalty of one hundred dollars, and in default of payment, to imprisonment for a term not exceeding six months, at the discretion of the court or judge. R.S., c. 106, s. 74. Selling or giving any intoxicating liquor on polling day. Penalty.

88. Every person committing any battery during any day whereon any poll is begun, holden, or proceeded with, within the distance of two miles of the place where such poll is begun, holden or proceeded with, is guilty of an aggravated assault, and shall be punished accordingly. R.S., c. 106, s. 69. Battery on polling day. Penalty.

89. Every person,—

(*a*) who, at any polling, either provides or furnishes drink or other refreshment at such person's expense to any elector during such polling; Providing drink.

(*b*) who pays for, procures or engages to pay for any drink or other refreshment, provided or furnished, at any polling to any elector during such polling; Paying for same.

(*c*) who furnishes or supplies any ensign, standard, or set of colours, or any other flag to or for any person or persons whomsoever with the intent that the same shall be carried or used in the county or city on any day of polling under Furnishing party flags.

this Part, or within eight days before such day, or during the continuance of such polling, by such person or any other person, as a party flag, to distinguish the bearer thereof and those who follow the same as the supporters of the opinions entertained, by such person in either interest;

Carrying party flag.

(*d*) who for any reason, carries or uses in either interest any such ensign, standard, set of colours or other flag as a party flag, within any county or city on the day of any polling, or within eight days before such day, or during the continuance of such polling;

Entering polling district armed.

(*e*) except the returning officer or his deputy, or one of the constables or special constables appointed by the returning officer or his deputy for the orderly conduct of the poll and the preservation of the public peace thereat, who has not had a stated residence in the polling district for at least six months next before the day of polling, who comes during any part of the day upon which the poll is to remain open, into such polling district armed with offensive weapons of any kind, as firearms, swords, staves, bludgeons or the like;

Approaching polling station armed.

(*f*) who while in any polling district arms himself during any part of the day of polling with offensive weapons of any kind, as firearms, swords, staves, bludgeons or the like, and thus armed, approaches within the distance of one mile of the place where the poll for such polling district is held, unless called upon by lawful authority so to do;

Penalty.

is guilty of an indictable offence and liable to a fine not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both, in the discretion of the court. R.S., c. 106, ss. 70, 71, 72 and 73.

90. Every person who,—

Giving, lending or promising money.

(*a*) directly or indirectly, by himself or by any other person on his behalf, gives or lends, or agrees to give or lend, or offers or promises any money or valuable consideration, or promises to procure or to endeavour to procure any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any person in order to induce any voter to vote or to refrain from voting, or corruptly does any act aforesaid, on account of such voter having voted or refrained from voting at any polling under this Part;

Procuring office or employment.

(*b*) directly or indirectly, by himself or by any other person on his behalf, give or procures, or agrees to give or procure, or offers or promises any office, place or employment to or for any voter, or to or for any other person, in order

to induce such voter to vote or to refrain from voting, or who corruptly does any act aforesaid, on account of any voter having voted or refrained from voting at any polling under this Part;

(*c*) directly or indirectly, by himself or by any other person on his behalf, makes any gift, loan, offer, promise, procurement, or agreement, as aforesaid to or for any person, in order to induce such person to procure, or endeavour to procure, or to prevent or endeavour to prevent the adoption of any petition under the provisions of this Part, or to procure or endeavour to procure the vote of any elector at any polling under this Part, or to prevent or endeavour to prevent any elector from voting at any polling under this Part; Gifts or promises to induce or to prevent the adoption of the second Part of this Act.

(*d*) upon and in conseqence of any such gift, loan, offer, promise, procurement or agreement, procures or prevents, or engages or promises or endeavours to procure or prevent the adoption of any petition under the provisions of this Part, or the vote of any voter at any poll under this Part; Corrupt agreement to procure adoption.

(*e*) advances or pays, or causes to be paid, any money to or to the use of any other person, with the intent that such money, or any part thereof, shall be expended in bribery or corrupt practices at any poll under this Part, or who knowingly pays or causes to be paid any money to any person, in discharge or re-payment of any money, wholly or in part expended in bribery or corrupt practices, at any poll under this Part; Paying money to be used or used in bribery.

shall be deemed to have committed the offence of bribery and is guilty of an indictable offence; and shall also incur a penalty of two hundred dollars, which may be recovered by any one who sues for the same to and for his own use, with full costs of suit: Provided that the actual personal expenses of any agent in either interest, his expenses for actual professional services performed, and *bona fide* payments for the fair cost of printing and advertising, shall be deemed to be expenses lawfully incurred, and the payment thereof shall not be deemed a violation of any provision of this Act. R.S., c. 106, s. 75. Guilty of bribery. Penalty. Lawful expenditure.

91. (*a*) Every voter, who, before or during any polling of votes under this Act, directly or indirectly, by himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting, at any poll under this Part; Receiving consideration or promises in respect to vote.

Receiving after voting.

(*b*) Every person who, after any polling under this Part, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration for having voted or refrained from voting, or for having induced any other person to vote or refrain from voting, at any polling under this Part;

Penalty.

shall be deemed to have committed the offence of bribery and is guilty of an indictable offence; and shall also incur a penalty of two hundred dollars, which may be recovered by any one who sues for the same to and for his own use, together with full costs of suit. R.S., c. 106, s. 76.

Offence of treating defined.

92. Every person who, corruptly, by himself or by or with any person, or by any ways or means on his behalf, at any time, either before or during any polling of votes under this Part, directly or indirectly, gives or provides, or causes to be given or provided, or is accessory to the giving or providing of, or pays wholly or in part any expenses incurred for, any meat, drink, refreshment or provision, to or for any person, in order to procure or prevent, or for having procured or prevented, the adoption of any petition under the provisions of this Part, or for the purpose of corruptly influencing such person or any other person to give or refrain from giving his vote at such polling of votes, is guilty of the offence of treating, and shall

Penalty.

incur a penalty of two hundred dollars, which may be recovered by any one who sues for the same to and for his own use, with full costs of suit in addition to any other penalty to which he is liable under any other provision of this Act. R.S., c. 106, s. 77.

Giving meat or drink on polling day.

93. Every person who shall give to any voter on the day of polling, on account of such voter having voted or being about to vote, any meat, drink or refreshment, or any money or ticket to enable such voter to procure refreshment, shall be guilty of an unlawful act and shall incur a penalty of ten dollars for each

Penalty.

offence, which may be recovered by anyone who sues for the same to and for his own use, with full costs of suit. R.S., c. 106, s. 78.

94. Every person who,—

Threats of violence.

(*a*) directly or indirectly, by himself or by any other person on his behalf makes use of, or threatens to make use of any force, violence or restraint; or,

Of injury.

(*b*) by himself or by or through any other person, inflicts or threatens the infliction of any injury, damage, harm or loss; or,

Practising intimidation.

(*c*) in any manner practises intimidation upon or against any person, in order to induce or compel such person

to vote or refrain from voting, or on account of such person having voted or refrained from voting at any polling under this Part; or,

(*d*) by abduction, duress or any fraudulent device or contrivance, impedes, prevents or otherwise interferes with the free exercise of the franchise of any voter, or thereby compels, induces or prevails upon any voter either to give or refrain from giving his vote at any polling under this Part; Interfering with free exercise of franchise.

shall be deemed to have committed the offence of undue influence, and is guilty of an indictable offence; and shall also incur a penalty of two hundred dollars, which may be recovered by any one who sues for the same to and for his own use, with full costs of suit. R.S., c. 106, s. 79. Penalty.

95. Every person who hires or promises to pay, or pays for any horse, team, carriage, cab or other vehicle, by or through any agent or other person in either interest, to convey any voter or voters to or from the poll or from the neighbourhood thereof, at any polling of votes under this Part, or pays by or through any agent or other person in either interest the travelling or other expenses of any voter, in going to or returning from any polling of votes under this Part, shall be deemed to have committed an unlawful act and shall incur a penalty of one hundred dollars, which may be recovered by any one who sues for the same to and for his own use. Hiring conveyance for voters. Penalty.

2. Every voter, who hires any horse, cab, cart, wagon, sleigh, carriage or other conveyance for any such agent, for the purpose of conveying any voter or voters to or from the polling place or places, shall, *ipso facto,* be disqualified from voting at such polling of votes under this Part, and for every such offence shall incur a penalty of one hundred dollars, which may be recovered by any one suing for the same, to and for his own use. R.S., c. 106, s. 80. Hiring for agent. Penalty.

96. Every one, who, at any polling of votes under this Part,— Personation.

(*a*) applies for a ballot paper in the name of some other person, whether such name is that of a person living or dead, or of a fictitious person; or, By applying for ballot paper.

(*b*) having voted once at any such polling, afterwards applies at the same polling for a ballot paper in his own name; Voting again.

is for all the purposes of this Act guilty of the offence of personation and shall be liable to a penalty not exceeding two hundred dollars and to imprisonment for a term not exceeding six months. R.S., c. 106, ss. 81 and 82. Penalty.

Compelling or inducing another to personate or swear falsely.

97. Every agent or other person in either interest, who corruptly, by himself or by or with any other person on his behalf, compels, or induces or endeavours to induce any person to personate any voter, or to take any false oath in any matter wherein an oath is required under this Part, is guilty of an indictable offence and shall, in addition to any other punishment to which he is liable for such offence, incur a penalty of two hundred dollars which may be recovered by any one who sues for the same, to and for his own use. R.S., c. 106, s. 83.

Penalty.

What shall be corrupt practices.

98. The offences of bribery, treating or undue influence aforesaid, personation or the inducing any person to commit personation, or any wilful offence against any of the eight sections last preceding, shall be corrupt practices within the meaning of the provisions of this Act. R.S., c. 106, s. 84.

Certain offences with respect to ballot papers.

99. Every one who,—

(*a*) forges or counterfeits, or fraudulently alters, defaces or fraudulently destroys, any ballot paper or the initials of the deputy returning officer signed thereon; or,

(*b*) without authority supplies any ballot paper to any person; or,

(*c*) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorized by law to put in; or,

(*d*) fraudulently takes out of the polling place any ballot paper; or,

(*e*) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the poll; or,

Penalty.

(*f*) attempts to commit any offence specified in this section;

is guilty of an indictable offence, and liable, if a returning officer, deputy returning officer, or other officer engaged at the polling, to a fine not exceeding one thousand dollars, and, in default of payment to imprisonment for any term less than two years, with or without hard labour, and, if any other person, to a fine not exceeding five hundred dollars, and, in default of payment to imprisonment for any term not exceeding six months, with or without hard labour. R.S., c. 106, s. 85.

Neglect of duty by officer.

100. Every returning officer or deputy returning officer who refuses or neglects to perform any of the obligations or formalities required of him by this Part, shall, for each such refusal or neglect, incur a penalty of two hundred dollars, which may be recovered by any person who sues for the same to and for his own use. R.S., c. 106, s. 86.

Penalty.

101. Every officer who is guilty of any wilful misfeasance or any wilful act or omission in violation of this Part shall forfeit to any person aggrieved by such misfeasance, act or omission, a penal sum not exceeding five hundred dollars, in addition to the amount of all actual damages thereby occasioned to such person. R.S., c. 106, s. 87. Contravention by election officer. Penalty.

Procedure.

102. All penalties and forfeitures, other than fines in cases of indictable offences, imposed by this Part, shall be recoverable or enforceable, with full costs of suit, by information or by any person who sues for the same in an action of debt, in any court of competent jurisdiction in the province in which the cause of action arises; and in default of payment of the amount which the offender is condemned to pay, within the period fixed by the court, the offender shall, if no other term of imprisonment is herein specially provided in that behalf, be imprisoned in the common gaol of the county or district for any term less than two years, unless such penalty and costs are sooner paid; and such imprisonment may be with hard labour where herein specially authorized. Enforcement of penalties.

2. No action or information for the recovery of any such penalty or forfeiture shall be commenced unless the person suing for the same has given good and sufficient security, to the amount of fifty dollars, to indemnify the defendant for the costs of his defence, if the person suing is condemned to pay the same. R.S., c. 106, s. 88. Security for costs.

103. It shall be sufficient for the plaintiff, in any action or suit under this Part, to allege, in his pleading or declaration, that the defendant is indebted to him in the sum of money thereby demanded, and to allege the particular offence in respect of which the action or suit is brought, and that the defendant has acted contrary to this Part. R.S., c. 106, s. 89. What it shall suffice to state in declaration.

104. Every prosecution for any indictable offence under this Part, and every action, suit or proceeding for any pecuniary penalty given by this Part to the person suing for the same, shall be commenced within the space of six months next after the act committed, and not afterwards, unless the same is prevented by the withdrawal or absconding of the defendant out of the jurisdiction of the court, and when commenced, shall be proceeded with and carried on without wilful delay. R.S., c. 106, s. 90. Limitation of actions.

General.

105. No polling of votes under this part shall be declared invalid by reason of a non-compliance with the provisions of this Part, as to the taking of the poll or the counting of the Mistakes in method only not fatal.

votes, or of any mistake in the use of the forms contained in the schedule to this Act, if it appears to the tribunal having cognizance of the question that the polling of votes was conducted in accordance with the principles laid down in this Part, and that such non-compliance or mistake did not affect the result of the polling. R.S., c. 106, s. 91.

Courts to have jurisdiction.

105A. Subject to the foregoing and to remove doubts it is declared that the Superior Courts of record for the trial of civil actions in the different provinces shall have jurisdiction respectively to try any action brought to set aside the proceedings in connection with a polling of votes under this part and to declare such proceedings void.

Who may be plaintiff.

2. Any elector entitled to vote under this Act in a city or county in which a polling of votes has taken place under this Part, may be plaintiff in any such action; but before beginning his action he shall publish a notice for two weeks in two newspapers published in the city or county in which the vote has taken place, or if there be but one newspaper published in such city or county, then in that newspaper, and in a newspaper whose place of publication is nearest to such city or county, or if there be no newspaper in such city or county, then in two newspapers whose place or places of publication is nearest to such city or county, such publication to be made in the French and English languages in any city or county where there is a newspaper published in each of these languages, which notice may be in the form A in the schedule to this Act. Any person or persons desiring to oppose such proceedings may thereupon file an appearance or appearances in the said court which may be in form B in the said schedule and such person or persons shall thereupon be the defendants in such proposed proceedings. Where more than one person files an appearance, the court shall make such order for consolidating the defences and uniting the contestations or give such directions as may be necessary in the premises to prevent embarrassment to the plaintiff or unnecessary costs or expense.

Who may be defendants.

Security for costs.

3. No such action shall be commenced until the plaintiff has given security for costs to the satisfaction of the court in which he proposes to bring his action, and no such action shall be brought after the expiration of six months from the date of the polling. 4-5 Geo. V. c. 53, s. 6.

Form "A" referred to in sec. 105A.

A.

In the matter of the vote for bringing the Canada Temperance Act into force in the (city or county of .....)

Notice is hereby given that of one of the voters entitled to vote under the said Act in the said (city or county) proposes to take legal proceedings

in the (*here state briefly the nature of the proposed proceedings and the name of the court in which they are to be taken*).

Any person who desires to oppose such proceedings may file an appearance in the said court and if no person files such appearance the said will proceed before said court *ex parte*

Dated at this day of A.D. 19....

B.

Form "B" referred to in Sec. 105A.

In the ..... Court .....

In the matter of the vote for bringing the Canada Temperance Act into force in the (city or county of .....)

I of

desire to oppose the legal proceedings proposed to be taken in this Honourable Court by .....

for the purpose (here describe nature of proposed proceedings as set out in the published notice)

Any papers or documents may be served upon me by leaving the same at .....

Dated at ..... this ..... day of..... A.D. 19....

No privilege in relation to proceedings in court.

106. No person shall be excused from answering any question put to him in any action, suit or other proceeding in any court, or before any judge, commissioner or other tribunal, touching or concerning any polling of votes under this Part, or the conduct of any person thereat, or in relation thereto, on the ground of any privilege, or on the ground that the answer to such question will tend to criminate such person; but no answer given by any person claiming to be excused on the ground of privilege or on the ground that such answer will tend to criminate himself, shall be used in any criminal proceeding against such person, other than an indictment for perjury, if the judge, commissioner or president of the tribunal gives to the witness a certificate that he claimed the right to be excused on either of the grounds aforesaid and made full answer to the satisfaction of the judge, commissioner or tribunal. R.S., c. 106, s. 92.

Provision as to use of answer.

Contracts relating to polling of votes void.

107. Every executory contract, or promise or undertaking, in any way referring to, arising out of, or depending upon, any polling of votes under this Part, even for the payment of lawful expenses or the doing of some lawful act, shall be void in law.

Recovering back money.

2. This section shall not enable any person to recover back any money paid for lawful expenses connected with such polling. R.S., c. 106, s. 93.

No further election within three years.

108. When, in the county or city, one-half or more of all the votes polled have been against the adoption of any petition embodied, as aforesaid, in any notice and in any proclamation under this Part, no similar petition shall be put to the vote of the electors of such county or city for a period of three years from the day on which such vote was taken. R.S., c. 106, s. 94.

Order in Council bringing into force.

Bringing Part II. of Act into force where licenses exist.

109. When any petition embodied, as aforesaid, in any notice and in any proclamation under this Part, has been adopted by the electors of the county or city named therein, and to which the same relates, the Governor in Council may, at any time after the expiration of sixty days from the day on which the same was adopted, by order in council published in the *Canada Gazette,* declare that Part II. of this Act shall be in force and take effect in such county or city upon, from and after the day on which the annual or semi-annual licenses for the sale of spirituous liquors then in force in such county or city will expire, if such day is not less than ninety days from the day of the date of such order in council; and if it is less, then on the like day in the then following year; and upon, from and after that day, Part II. of this Act shall become and be in force and take effect in such county or city accordingly, subject however to the revocation of such order in council as hereinafter provided.

Where no licenses exist.

2. If, in any county or city, there are no licenses in force when the petition mentioned in this Part is adopted, Part II. of this Act shall become and be in force, and take effect in such county or city, after the expiration of thirty days from the day of the date of an order in council to that effect, published in the *Canada Gazette.* R.S., c. 106, s. 95; 51 V., c. 35, s. 9.

Revocation of Order in Council.

Revoking order in council.

110. No order in council issued under this Part shall be revoked until after the expiration of three years from the date of the coming into force under it of Part II. of this Act.

Submitting petition to vote.

2. No petition for the revocation of the order in council which declares Part II. of this Act in force, shall be submitted to the vote of the electors sooner than thirty days before the expiration of three years from the coming into force of Part II. of this Act in any county or city. 51 V., c. 35, s. 3.

Form of petition for revocation.

111. A petition to the Governor in Council praying for revocation of any order in council, passed for bringing Part II. of this Act into force, may be in form M or to the like effect. 51 V., c. 35, s. 5.

112. Such petition may be embodied, as in form M, in a notice in writing addressed to the Secretary of State of Canada and signed by electors in a county or city, to the effect that the signers desire that the votes of such electors as, under the provisions of this Part are entitled to vote for the bringing into force of Part II. of this Act, be taken for and against the revocation of the order in council bringing Part II. of this Act into force. 51 V., c. 35, s. 6. Petition embodied in notice to Secretary of State.

113. The provisions of this Part as to proceedings for bringing part II. of this Act into force, including such as relate to the mode of obtaining a poll, and to the returning officers and their duties, and to the poll, and to proceedings after close of the poll, and to the summing up of the votes and returns, and to the secrecy of voting, and to the preservation of peace and good order, and to the prevention of corrupt practices and other illegal acts, and to procedure, except so much of such provisions as relates to the form and substance of the petition in that behalf, and to the form and substance of the ballot paper and printed directions to be furnished to the deputy returning officers, shall apply, *mutatis mutandis*, to every case of a petition and notice for revocation of an order in council under this Part, and to all the proceedings to be had and taken thereon, and shall be applicable in respect of the powers to be exercised, and to the offences which may be committed and the penalties which may be incurred in the course of, and in connection with, such proceedings. 51 V., c. 35, s. 7. Application of provisions to proceedings for revocation.

114. For the voting for the revocation of any such order in council the ballot of each voter shall be a printed paper, in this Part called a ballot paper, with a counterfoil, and the ballot paper and counterfoil shall be according to form N, and in such ballot paper the words *Against the Act* shall be printed in red ink and the words *For the Act* in black ink; and the printed directions to be furnished to the deputy returning officers shall be according to form O. 51 V., c. 35, s. 8. Form of ballot paper. Printed directions.

115. When any petition for the revocation of an order in council for the bringing into operation of Part II. of this Act is adopted by the electors of the county or city to which the same relates, the Governor in Council many, at any time after the expiration of thirty days from the day on which the same was so adopted, by order in Council published in the *Canada Gazette*, declare that Part II. of this Act shall no longer be in force; and thereafter Part II. shall cease to be in force or effect in such county or city. 51 V., c. 35, s. 9. Declaring Part II. of Act no longer in force.

Repeal of By-laws passed under The Temperance Act of 1864, and Repeal of Certain Sections of that Act.

Proceedings for repeal of by-law under Temperance Act, 1864.

116. If a petition to the Governor in Council, praying for the repeal of a by-law passed by the council of any county or city in the provinces of Ontario or Quebec under the authority and for the enforcement of the Act of the Legislature of the late province of Canada, passed in the session thereof held in the twenty-seventh and twenty-eighth years of Her late Majesty's reign, chaptered eighteen, and known as *The Temperance Act of 1864,* is embodied in a notice addressed to the Secretary of State and signed by one-fourth or more of the electors of such county or city, and such proceedings are had thereon as are, by this Part, required to be had on a notice and petition for bringing Part II. of this Act into force, and more than one-half of the votes polled are found to be for the petition, the Governor in Council may, by order in council, repeal such by-law, and thereupon such by-law shall become and be repealed, upon, from, and after the day of the publication of such order in council in the *Canada Gazette.*

Application of provisions of preceding sections.

2. Each and all of the provisions of the preceding sections of this Part shall apply, *mutatis mutandis,* to every case of a petition and notice for the repeal of any such by-law, and to the proceedings to be had and taken thereon, and in respect to the powers to be exercised, and the offences that may be committed and penalties that may be incurred in the course of and in connection with such proceedings.

Application in case of divided counties.

3. The provisions of this section shall be applicable to counties which have been divided for municipal purposes after the adoption of *The Temperance Act of 1864.* R.S., c. 106, s. 97; 51 V., c. 35, s. 10.

PART II.

TRAFFIC IN INTOXICATING LIQUORS.

Prohibition.

Prohibition of dealings with liquor where Part II. is in force.

117. From the day on which this Part comes into force and takes effect in any county or city, and for so long thereafter as, and while the same continues or is in force therein, no person shall, except as in this Part specially provided, by himself, his clerk, servant or agent,—

Offering for sale.

(*a*) expose or keep for sale, within such county or city, any intoxicating liquor; or,

Sale, barter, gift.

(*b*) directly or indirectly on any pretense or upon any device, within any such county or city, sell or barter, or, in

consideration of the purchase of any other property, give to any other person any intoxicating liquor; or,

(*c*) send, ship, bring or carry or cause to be sent, shipped, brought, or carried to or into any such county or city, any intoxicating liquor; or, Sending and bringing.

(*d*) deliver to any consignee or other person, or store, warehouse, or keep for delivery, any intoxicating liquor so sent, shipped, brought or carried. Delivery.

2. Paragraphs (*c*) and (*d*) of subsection 1 of this section shall not apply to any intoxicating liquor sent, shipped, brought or carried to any person or persons for his or their personal or family use, except it be so sent, shipped, brought or carried to be paid for in such county or city to the person delivering the same, his clerk, servant, or agent, or his master or principal, if the person delivering it is himself a servant or agent. Exceptions.

3. No act done in violation of the provisions of this section shall be rendered lawful by reason of,— Certain licenses not to avail as against provisions of this Act.

(*a*) any license issued to any distiller or brewer; or

(*b*) any license for retailing on board any steamboat or other vessel, brandy, rum, whiskey, or other spirituous liquors, wine, ale, beer, porter, cider, or other vinous or fermented liquors; or,

(*c*) any license for retailing on board any steamboat or other vessel, wine, ale, beer, porter, cider or other vinous or fermented liquors, but not brandy, rum, whiskey or other spirituous liquors; or,

(*d*) any license of any other description whatsoever. 7-8 Edw. VII. c. 71, s. 1.

118. The sale of wine for exclusively sacramental purposes may, on the certificate of a clergyman affirming that the wine is required for sacramental purposes, be made by druggists and vendors thereto specially licensed by the lieutenant governor in each province; but the number of such licensed druggists and vendors shall not exceed one in each township or parish, or two in each town, or one for every four thousand inhabitants in each city. R.S., c. 106, s. 99. Sale for sacramental purposes.

119. The sale of intoxicating liquor for exclusively medicinal purposes, or for *bona fide* use in some art, trade or manufacture, may be made by any person duly authorized to sell the same; but such intoxicating liquor when sold for medicinal purposes, shall be removed from the premises, and such sale shall be made only on the certificate of a legally qualified physician having no interest in the sale, affirming that such liquor has been prescribed for the person named therein. Sale for purposes of medicine, art, trade, or manufacture.

2. When such sale of intoxicating liquor is for its use in some art, trade or manufacture, the same shall be made only on a certificate, signed by two justices of the peace, of the good Certificate to be produced.

faith of the application, accompanied by the affirmation of the applicant, that the liquor is to be used only for the particular purposes set forth in the affirmation.

Record and annual return to collector.

3. Such vendor shall file the certificates and keep a register of all such sales, indicating the name of the purchaser and the quantity sold, and shall make an annual return of all such sales, on the thirty-first day of December in every year, to the collector of Inland Revenue within whose revenue division the county or city is situate. 51 V., c. 34, s. 5.

Sale in wholesale quantities and to certain persons only.

120. Any producer of cider in the county may, at his premises, and any licensed distiller or brewer, having his distillery or brewery within any county or city, may at such distillery or brewery, expose and keep for sale such liquor as he manufactures thereat, and no other; and may sell the same thereat, but only in quantities not less than ten gallons, or in the case of ale or beer, not less than eight gallons at any one time, and only to druggists and vendors licensed as aforesaid, or to such person as he has good reason to believe will forthwith carry the same beyond the limits of the county or city, and of any adjoining county or city in which this Part is then in force, to be wholly removed or taken away in quantities not less than ten gallons, or in the case of ale or beer, not less than eight gallons at a time. R.S., c. 106, s. 99.

Sales by vine-growing companies.

121. Any incorporated company authorized by law to carry on the business of cultivating and growing vines and of making and selling wine and other liquors produced from grapes, having their manufactory within such county or city, may thereat expose and keep for sale such liquor as they manufacture thereat and no other; and may sell the same thereat, but only in quantities not less than ten gallons at any one time, and only to druggists and vendors licensed as aforesaid, or to such persons as they have good reason to believe will forthwith carry the same beyond the limits of the county or city and of any adjoining county or city in which this Part is then in force, to be wholly removed and taken away in quantities not less than ten gallons at a time. R.S., c. 106, s. 99.

Sales by manufacturers of pure native wines.

122. Manufacturers of pure native wines made from grapes grown and produced by them in Canada may, when authorized so to do, by license from the municipal council, or other authority having jurisdiction where such manufacture is carried on, sell such wines at the place of manufacture in quantities of not less than ten gallons at one time, except when sold for sacramental or medical purposes, when any number of gallons, from one to ten, may be sold. R.S., c. 106, s. 99.

123. Any merchant or trader, exclusively in wholesale trade and duly licensed to sell liquor by wholesale, having his store or place for sale of goods within such county or city, may thereat keep for sale and sell intoxicating liquor, but only in quantities not less than ten gallons at any one time, and only to druggists and vendors licensed as aforesaid, or to such persons as he has good reason to believe will forthwith carry the same beyond the limits of the county or city, and of any adjoining county or city, in which this Part is then in force, to be wholly removed and taken away in quantities not less than ten gallons at a time. R.S., c. 106, s. 99. Sales by wholesale merchants and traders.

124. In any prosecution against a producer, distiller, brewer, manufacturer, merchant or trader, for any violation of this Part, it shall lie upon the defendant to furnish satisfactory evidence of having good reason for believing that such liquor would be forthwith removed beyond the limits of the county or city, and of any adjoining county or city in which this Part is then in force, for consumption outside the same. R.S., c. 106, s. 99. Burden of proof of reasons of belief of intention to remove liquor sold.

125. Nothing in this Act shall be deemed to interfere with the purchase or sale, by legally qualified physicians, chemists or druggists,— Sales by physicians and druggists.

(*a*) of the officinal preparations of the authorized pharmacopœias when made of full medicinal strength and sold only for medicinal purposes; Officinal preparations.

(*b*) of any patent medicine, unless such patent medicine is known to the vendor to be capable of being used as a beverage the sale of which is a violation of this Act; Patent medicines.

(*c*) of *eau de cologne,* bay rum, or other articles of perfumery, lotions, extracts, varnishes, tinctures or other pharmaceutical preparations containing alcohol, but not intended for use as beverages; Perfumery and preparations.

(*d*) of methylated spirits for pharmaceutical, chemical or mechanical uses; Methylated spirits.

(*e*) of spirituous liquors or alcohol for exclusively medicinal purposes, or for *bona fide* use in some art, trade or manufacture: Provided that such spirituous liquor or alcohol, when sold for medicinal purposes, shall not exceed in quantity ten ounces at any one time, and shall be removed from the premises, and that the sale thereof is made on the certificate or prescription of a legally qualified physician affirming that such liquor or alcohol has been prescribed for the person named therein; and that when such sale is for the use of the liquor or alcohol in some art, trade or manufacture, such sale shall be made only on a certificate signed by two justices of the peace of Alcohol for purposes of art, trade or manufacture. Certificate necessary.

the good faith of the application, accompanied by the affirmation of the applicant that such liquor or alcohol is to be used only for the purposes set forth in the application.

Record of sales.

2. The vendor shall file all such certificates and prescriptions, and shall record every such sale in a book kept for that purpose, giving the name and address of the purchaser, the quantity of liquor or alcohol so sold, the name and address of the physician prescribing it, and of the person for whom it is prescribed, and of the justices whose names are appended to the certificate above referred to, and of the purpose for which the liquor or alcohol is prescribed.

Open for inspection.

3. The file of such certificates and prescriptions and the said book shall be kept for inspection by the inspector for the county or district at all proper times.

Annual return by vendor.

4. The vendor shall make an annual return of all such sales on the thirty-first day of December in every year to the collector of Inland Revenue within whose revenue division the county or district is situate. 55-56 V., c. 26, s. 1.

Offences and Penalties.

False medical certificate.

126. Any legally qualified physician who gives a certificate under this Part, for any other than strictly medical purposes, affirming that any intoxicating liquor, therein specified, has been prescribed for the person named therein, shall on summary

Penalty.

conviction, for the first offence be liable to a penalty of twenty dollars, and for any second or subsequent offence to a penalty of forty dollars. 51 V., c. 34, s. 5.

PART III.

Penalty for violation of Part II.

127. Every one who by himself, his clerk, servant or agent, violation of Part II. of this Act,—

(*a*) exposes or keeps for sale, any intoxicating liquor; or,

(*b*) directly or indirectly, on any pretense, or by any device, sells or barters, or in consideration of the purchase of any other property, gives to any other person any intoxicating liquor; or,

(*c*) sends, ships, brings or carries, or causes to be sent, shipped, brought or carried to or into any county or city any intoxicating liquor; or,

(*d*) delivers to any consignee or other person, or stores, warehouses, or keeps for delivery any intoxicating liquor so sent, shipped, brought or carried;

shall, on summary conviction, be liable to a penalty for the first offence of not less than fifty dollars or imprisonment for a term not exceeding one month, with or without hard

labour, and for a second offence, to a penalty of not less than one hundred dollars, or imprisonment for a term not exceeding two months with or without hard labour, and for a third and every subsequent offence, to imprisonment for a term not exceeding four months, with or without hard labour.

Punishment of accessory.

2. Every one who, in violation of Part II. of this Act, in the employment or on the premises of another,—

(*a*) so exposes or keeps for sale any intoxicating liquor; or,

(*b*) so sells, barters, or gives any intoxicating liquor; or,

(*c*) so sends, ships, brings or carries or causes to be sent, shipped, brought or carried any intoxicating liquor; or,

(*d*) so delivers, stores, warehouses, or keeps any intoxicating liquor;

is equally guilty with the principal and shall on summary conviction be liable to the same penalty or punishment as the principal.

Forfeiture of intoxicant and package.

3. All intoxicating liquors with respect to which any such offence has been committed, and all kegs, barrels, cases, bottles, packages or receptacles of any kind, in which such liquors are contained, shall be forfeited.

Where prosecution may be brought.

4. Prosecutions for any offence under paragraph (*c*) of subsection 1 of this section, or under paragraph (*c*) of subsection 2 of this section, may be brought and carried on and a conviction had in the city, town, or other municipality from which any intoxicating liquor is sent, shipped, brought or carried as aforesaid, or in the city, town or other municipality to, or into which, such intoxicating liquor is so sent, shipped, brought or carried. 7-8 Edw. VII. c. 71, s. 2.

Second offence.

128. If any person who has been convicted of a violation of any provision of Part II. of this Act is afterwards convicted of any offence against such provision, or against any other provision of Part II., such conviction shall be deemed a conviction for a second offence, within the meaning of the last preceding section; and may be dealt with and punished accordingly, although the two convictions may be for acts of different descriptions; and if any such person is afterwards again convicted of a violation of any provision of Part II., whether similar or not to the previous offences, such conviction shall, in like manner, be deemed a conviction for a third offence, within the meaning of the last preceding section, and may be dealt with and punished accordingly. R.S., c. 106, s. 115.

Penalty.

Third offence.

Prosecution by collector.

129. Any prosecution for any such penalty or punishment may be brought by or in the name of the collector of Inland Revenue within whose official division the offence was committed, or by or in the name of any person. R.S., c. 106, s. 101.

Obligation to prosecute.

130. Such collector of Inland Revenue shall bring such prosecution, whenever he has reason to believe that any such offence has been committed, and that a prosecution therefor can be sustained, and would not subject him to any undue measure of responsibility in the premises. R.S., c. 106, s. 102.

Before whom prosecution may be brought.

131. Such prosecution may be brought before any judge of the sessions of the peace, recorder, police magistrate, stipendiary magistrate, sitting magistrate, two justices of the peace, or any magistrate having the power or authority of two or more justices of the peace, having jurisdiction where the offence was committed. 51 V., c. 34, s. 6.

Other officials not to interfere.

132. If any prosecution is brought before any such judge of the sessions of the peace, recorder, police magistrate, stipendiary magistrate, sitting magistrate, or magistrate having the power of authority of two or more justices of the peace, no other justice shall sit or take part therein. 51 V., c. 34, s. 7.

Prosecution before two justices.

133. If such prosecution is proposed to be brought before any two other justices of the peace, all acts and proceedings prior to the hearing and trial may be done and taken by one of them.

No other justice shall sit.

2. In such case no justice other than the two justices before whom the prosecution is proposed to be brought shall sit or take part therein, except in the case of their absence or in the absence of one of them; and not in the former, except with the assent of the prosecutor, or in the latter, except with the assent of the one of such justices who is present. 51 V., c. 34, s. 8.

Limitation of prosecutions.

134. Every such prosecution shall be commenced within three months after the alleged offence, and shall be heard and determined in a summary manner, either upon the confession of the defendant or upon the evidence of a witness or witnesses. R.S., c. 106, s. 106.

Summary conviction.

135. Every offence against Part II. of this Act may be prosecuted and the penalties and punishments therefor enforced in the manner directed by Part XV. of the Criminal Code so far as no provision is in this Part made for any matter or thing which is required to be done with respect to such prosecution; and all the provisions contained in Part XV. of the Criminal Code shall be applicable to such prosecutions and to the judicial and other officers before whom the same are by this Part authorized to be brought, in the same manner as if they were incorporated in this Part, and as if all such judicial and other officers were named in this Part. R.S., c. 106, s. 107; 51 V., c. 34, s. 9.

136. If it is proved upon oath before any judge of the sessions of the peace, recorder, police magistrate, stipendiary magistrate, two justices of the peace, or any magistrate having the power or authority of two or more justices of the peace, that there is reasonable cause to suspect that any intoxicating liquor is kept for sale in violation of Part II. of this Act, or of *The Temperance Act of 1864,* or is stored, warehoused, or kept for delivery, in violation of Part II. of this Act, in any dwelling house, store, shop, warehouse, outhouse, garden, yard, croft, vessel, building, or other place or places, such officer may grant a warrant to search in the daytime such dwelling house, store, shop, warehouse, outhouse, garden, yard, croft, vessel, building, or other place or places, for such intoxicating liquor, and if the same or any part thereof is there found, to bring the same before him. Issue of search-warrant.

2. Any information under this section may be in form Q and any search warrant under this section may be in form R. 7-8 Edw. VII. c. 71, s. 3. Form of information and of search-warrant.

137. When any person is convicted of any offence against any of the provisions of Part II. of this Act, or *The Temperance Act of 1864,* the officer or officers so convicting may adjudge and order, in addition to any other penalty or punishment, that the intoxicating liquor in respect to which the offence was committed, and which has been seized under a search warrant as aforesaid, and all kegs, barrels, cases, boxes, bottles, packages, and other receptacles of any kind whatsoever, found containing the same be forfeited and destroyed, and such order shall thereupon be carried out by the constable or peace officer who executed the said search warrant or by such other person as may be thereunto authorized by the officer or officers who have made such conviction. 51 V., c. 34, s. 11. Destruction of liquor seized under warrant.

Necessary Allegations in Proceedings.

138. In describing offences respecting the sale or other unlawful disposal of intoxicating liquor, or the keeping thereof for sale, in any information, summons, conviction, warrant or proceeding under *The Temperance Act of 1864,* or under this Act, it shall be sufficient to state the unlawful sale, barter, disposal or keeping of intoxicating liquor simply, without stating the name or kind of such liquor, or the price thereof, or the name of any person to whom it was sold, bartered or disposed of; and it shall not be necessary to state the quantity of liquor so sold, bartered, disposed of or kept, except in the case of offences where the quantity is essential, and it shall then be sufficient to allege the sale or disposal of more or less than such quantity. Description of offences.

Alleging a negative.

2. It shall not be necessary, in any such summons, conviction, warrant or proceeding, to negative the circumstances, the existence of which would make the act complained of lawful, but upon any such circumstances being proved in evidence, the defendant shall be acquitted.

Provision applies to all cases.

3. The provision of the last preceding subsection as to manner of statement of an offence shall apply, whether such circumstances are stated by way of exception in the section under which the offence is laid, or in a substantive section, or otherwise. R.S., c. 106, s. 110.

Proof.

Liquor in premises where bar is found deemed to be kept for sale.

139. When in any house, shop, room or other place in any municipality in which Part II. of this Act or in which any prohibitory by-law passed under the provisions of *The Temperance Act of 1864,* is in force, a bar, counter, beer pumps, kegs, or any other appliances or preparations similar to those usually found in taverns and shops where intoxicating liquors are usually sold or trafficked in, are found, and intoxicating liquor is also found in such house, shop, room or place, such liquor shall be deemed to have been kept for sale contrary to the provisions of Part II. of this Act or of *The Temperance Act of 1864,* as the case may be, unless the contrary is proved by the defendant in any prosecution; and the occupant of such house, shop, room or other place shall be taken conclusively to be the person who keeps therein such liquor for sale. R.S., c. 106, s. 111.

Occupant deemed the keeper.

Passing of money or description of liquor need not be proved.

140. In proving the sale or barter or other unlawful disposal of liquor for the purpose of any proceeding relative to any offence under *The Temperance Act of 1864,* or under this Act, it shall not be necessary to show that any money actually passed or that any liquor was actually consumed, if the justices, magistrate or other officer or court hearing the case is satisfied that a transaction, in the nature of a sale or barter or other unlawful disposal, actually took place. R.S., c. 106, s. 112.

Conclusive evidence not necessary.

141. In any prosecution under *The Temperance Act of 1864,* or under this Act, for the sale or barter or other unlawful disposal of intoxicating liquor, it shall not be necessary that any witness should depose directly to the precise description of the liquor sold or bartered, or the precise consideration therefor, or to the fact of the sale or other disposal having taken place, with this participation or to his own personal and certain knowledge; but the justices or magistrate or other officer trying the case, so soon as it appears to them or him that the circumstances in evidence sufficiently establish the violation of law

Rebuttal competent.

complained of, shall put the defendant on his defence, and in default of his rebuttal of such evidence, shall convict him accordingy. R.S., c. 106, s. 113.

142. On the trial of any proceeding, matter or question under *The Temperance Act of 1864*, or under this Act, the person opposing or defending, or the wife or husband of such person opposing or defending shall be competent to give evidence in such proceding, matter or question. R.S., c. 106, s. 114; 51 V., c. 34, s. 13. Wife or husband a competent witness.

Subsequent Offences.

143. In case of a previous conviction or convictions being charged,— Subsequent offence to be first inquired into.

(*a*) the justices or magistrate or other officer shall, in the first instance, inquire concerning such subsequent offence only, and if the accused is found guilty thereof, and is present when so found guilty, he shall then, and not before, be asked whether he was so previously convicted, as alleged in the information, and, if he answers that he was so previously convicted, he may be convicted accordingly, but, if he denies that he was so previously convicted or stands mute of malice, or does not answer directly to such question, or is not present when found guilty as aforesaid, the justices or police magistrate or other officer shall then inquire concerning such previous conviction or convictions;

(*b*) the number of such previous convictions shall be provable by the production of a certificate under the hand of the convicting justices or magistrate, or officer, or of the clerk of the peace, without proof of signature or official character, or by other satisfactory evidence; Number of previous convictions.

(*c*) a conviction may, in any case be had as for a first offence notwithstanding that there has been a prior conviction or convictions for the same or any other offence. Conviction in any case for first offence.

2. Convictions for several offences may be made under this Act, although such offences have been committed on the same day; but the increased penalty or punishment hereinbefore imposed shall only be recoverable or be liable to be imposed in the case of offences committed on different days, and after information laid for a first offence. R.S., c. 106, s. 115. Several offences on same day. Increased penalty.

144. In the event of any conviction for any second or subsequent offence becoming void or defective after the making thereof, by reason of any previous conviction being set aside, quashed or otherwise rendered void, the justices or magistrate or other officer by whom such second or subsequent conviction Amendment of second conviction if first conviction set aside.

was made, may, by summons under his or their hand, require the person convicted to appear at a time and place to be named in such summons, and may thereupon, upon proof of the due service of such summons, if such person fails to appear, or on his appearance, amend such second or subsequent conviction, and adjudge such penalty or punishment as might have been adjudged had such previous conviction never existed, and such amended conviction shall thereupon be deemed valid, to all intents and purposes, as if it had been made in the first instance. R.S., c, 106, s. 115.

Variances, Defects and Amendments.

Amendment of information for variance.

145. In the event of any variance between the information and evidence adduced in support thereof, the justices or magistrate or other officer may amend or alter such information, and may substitute, for the offence charged therein, any other offence against the provisions of *The Temperance Act of 1864*, or of this Act, as the case may be; but if it appears that the defendant has been materially misled by such variance, such justices, magistrate or other officer shall thereupon adjourn the hearing of the case to a future day, unless the defendant waives such adjournment. R.S., c. 106, s. 116.

Adjournment if defendant misled.

Variance or defect not to invalidate conviction.

146. No conviction or warrant enforcing the same, or other process or proceeding under either of the said Acts shall be held insufficient or invalid by reason of any variance between the information and conviction, or by reason of any other defect in form or substance, if it can be understood from such conviction, warrant, process or proceeding, that the same was made for an offence against some provision of such Act, within the jurisdiction of the justices or magistrate or other officer who made or signed the same, and if there is evidence to prove such offence, and if no greater penalty is imposed than is authorized by such Act: Provided that the court or judge, where so satisfied, shall, even if the punishment imposed or the order made is in excess of that which might lawfully have been imposed or made, have the like powers in all respects to deal with the case as seems just as are by section seven hundred and fifty-four of the Criminal Code conferred upon the court to which an appeal is taken under the provisions of section seven hundred and forty-nine of the Criminal Code. R.S., c. 106, s. 117; 55-56 V., c. 29, s. 889.

Proviso.

Application to quash conviction to be decided upon the merits.

147. Upon any application to quash such conviction or warrant enforcing the same, or other process or proceeding, or to discharge any person in custody under such warrant, whether such application is made in appeal or upon *habeas corpus*, or

otherwise, the court or judge to whom such appeal is made, or to whom such application is made in appeal or upon *habeas corpus,* or otherwise, shall dispose of such appeal or application upon the merits, notwithstanding any such variance or defect as aforesaid.

Amendment.

2. Such court or judge may, in any case, amend any such conviction or warrant, process or proceeding, if necessary.

Not to be quashed if merits tried.

3. In all cases in which it appears that the merits have been tried and that any conviction, warrant, process or proceeding is sufficient and valid under this section or otherwise, such conviction, warrant, process or proceeding shall be affirmed, or shall not be quashed, as the case may be; and any conviction, warrant, process or proceeding so affirmed, or affirmed and amended, may be enforced in the same manner as convictions affirmed on appeal, and the costs thereof shall be recoverable as if originally awarded. R.S., c. 106, s. 118.

Enforcement.

Certiorari and Appeal Restricted.

Certiorari taken away.

148. No conviction, judgment or order, in respect of any offence against Part II. of this Act, shall be removed by *certiorari* or otherwise into any of His Majesty's courts of record.

No appeal in certain cases.

2. No appeal shall be allowed from any such conviction, judgment or order to any court of general sessions or other court whatsoever, if the conviction has been made by a stipendiary magistrate, recorder, judge of the sessions of the peace, police magistrate, sitting magistrate, or any magistrate or officer having the power and authority of two or more justices of the peace.

Except in case of conviction of a medical man.

3. The provisions of this section, taking away an appeal, shall not apply to any conviction made against any legally qualified physician on a charge of having given a certificate under Part II. of this Act for any other than strictly medicinal purposes, affirming that the liquor specified therein had been prescribed for the person named therein. R.S., c. 106, s. 119; 51 V., c. 34, ss. 5 and 12.

Compounding Offences.

Compounding offence.

149. Everyone who, having violated any of the provisions of this Act or of any Act in force in any province, respecting the issue of licenses for the sale of fermented or spirituous liquors, or of *The Temperance Act of 1864,* compromises, compounds or settles, or offers or attempts to compromise, compound or settle the offence with any person or persons, with the view of preventing any complaint being made in respect thereof, or if a complaint has been made, with the view of getting rid

of such complaint, or of stopping or of having the same dismissed for want of prosecution or otherwise, is guilty of an offence against this Act, and on conviction thereof, shall be liable to imprisonment at hard labour in the common gaol of the county or district in which the offence was committed, for any term not exceeding three months.

Penalty.

Punishment of parties to compromise.

2. Every one who is concerned in, or is a party to the compromise, composition or settlement mentioned in this section, is guilty of an offence against this Act, and, on conviction thereof, shall be liable to imprisonment in the common gaol of the county or district in which the offence was committed, for any term not exceeding three months. R.S., c. 106, s. 120.

Tampering with Witnesses.

Tampering with witnesses.

150. Every one who, on any prosecution under any of the Acts referred to in the last preceding section, tampers with a witness, either before or after he is summoned or appears as such witness on any trial or proceeding under any of such Acts, or by the offer of money, or by threats, or in any other way, either directly or indirectly, induces or attempts to induce any such witness to absent himself, or to swear falsely, shall incur a penalty of fifty dollars for each offence. R.S., c. 106, s. 121.

Penalty.

Forms to be used.

151. The forms given in the schedule to this Act, or any forms to the like effect, shall be sufficient in the cases thereby respectively provided for, and, where no forms are prescribed by the said schedule, new ones may be framed in accordance with this Act or with Part XV. of the Criminal Code in so far as the same are not inconsistent with any provisions made in this Act, for any matter or thing required to be done with respect to any prosecution. 51 V., c. 34, s. 14.

Construction of this Act as to effect.

152. This Act shall have and take effect from the passing thereof in every county and city in which Part II. of *The Canada Temperance Act* is then in force, in the same manner and to the same extent as if it had formed a part of the said Act when Part II. of the said Act was brought in force in such county or city: Provided always that offences against the foregoing amendments, if committed before the passing of this Act, shall not be considered violations of Part II. of *The Canada Temperance Act.*

SCHEDULE.

Form A.

Forms of Notice and Petition for the Bringing of Part II. of this Act into Force.

To the Honourable the Secretary of State of Canada:

Sir,—We, the undersigned electors of the county (*or* city) of request you to take notice that we propose presenting the following petition to His Excellency the Governor General, namely:—

To His Excellency the Governor General of Canada in Council.

The petition of the electors of the county (*or* city) of , qualified and competent to vote at the election of a member of the House of Commons in the said county (*or* city),—

Respectfully shows, that your petitioners are desirous that Part II. of the Canada Temperance Act, should be in force and take effect in the said county (*or* city).

And that we desire that the votes of all the electors of the said county (*or* city) be taken for and against the adoption of the said petition.

Wherefore your petitioners humbly pray that Your Excellency will be pleased, by an order in council under the one hundred and ninth section of the said Act, to declare that Part II. of the said Act shall be in force and take effect in the said county (*or* city).

And your petitioners will ever pray, etc.

R.S., c. 106, sch. form A.

Form B.

Oath of the Returning Officer.

I, the undersigned, A.B., returning officer under the Canada Temperance Act, for the county (*or* city) of solemnly swear (*or if he be one of the persons permitted by law to affirm in civil cases,* solemnly affirm) that I will act faithfully in that capacity, without partiality, fear, favour or affection. So help me God.

(*Signature*) A. B.,
Returning Officer.

Certificate of Returning Officer having taken Oath of Office.

I, the undersigned, hereby certify that on the day of the month of , 19 , A. B., the returning officer, under the Canada Temperance Act, for the county (*or* city) of , took and subscribed before me the oath (*or* affirmation) of office, in such case required of a returning officer, by section fourteen of the Canada Temperance Act.

In testimony whereof, I have delivered to him this certificate.

(*Signature*) C. D.,
Justice of the Peace.

R.S., c. 106, sch. form B.

FORM C.

Commission of a Deputy Returning Officer.

To G. H. (*insert his addition and residence*).

Know you, that in my capacity of returning officer, under the Canada Temperance Act, for the county (or city) of I have appointed and do hereby appoint you to be deputy returning officer for the polling district number , of the said county (*or* city) of . there to take the votes of the electors by ballot, according to law, at the polling station to be by you opened and kept for that purpose, and you are hereby authorized and required to open and hold the poll, under the said Act, for the said polling district, on the day of , at nine o'clock in the forenoon, at (*here describe particularly the place in which the poll is to be held*), and there to keep the said poll open during the hours prescribed by law, and to take, at the said polling place, by ballot, in the manner by law provided, the votes of the electors voting at the said polling place, and after counting the votes given and performing the other duties required of you by law, to return to me forthwith the ballot box, sealed with your seal, and inclosing the ballots, voters' list, and other documents required by law, together with this commission.

Given under my hand at , this day of , in the year 19 .

(*Signature*) A. B.,
Returning Officer.

R.S., c. 106, sch. form C.

FORM D.

Oath of Deputy Returning Officer.

I, the undersigned, G. H., appointed deputy returnng officer for the polling district, No. , of the county (*or* city) of , solemnly swear (*or, being one of the persons permitted by law to affirm in civil cases,* solemnly affirm) that I will act faithfully in my said capacity of deputy returning officer, without partiality, fear, favour or affection. So help me God.

(*Signature*) G. H.,

Deputy Returning Officer,

Certificate.

Certificate of a Deputy Returning Officer having taken the Oath of Office.

I, the undersigned, hereby certify that on the day of the month of , G. H., deputy returning officer for the polling district No. , of the county (*or* city) of , took and subscribed the oath (*or* affirmation) of office, required in such case of a deputy returning officer, by section eighteen of the Canada Temperance Act.

In testimony whereof, I have delivered to him this certificate under my hand.

(*Signature*) A. B.,

Returning Officer.

or C.D.,

Justice of the Peace.

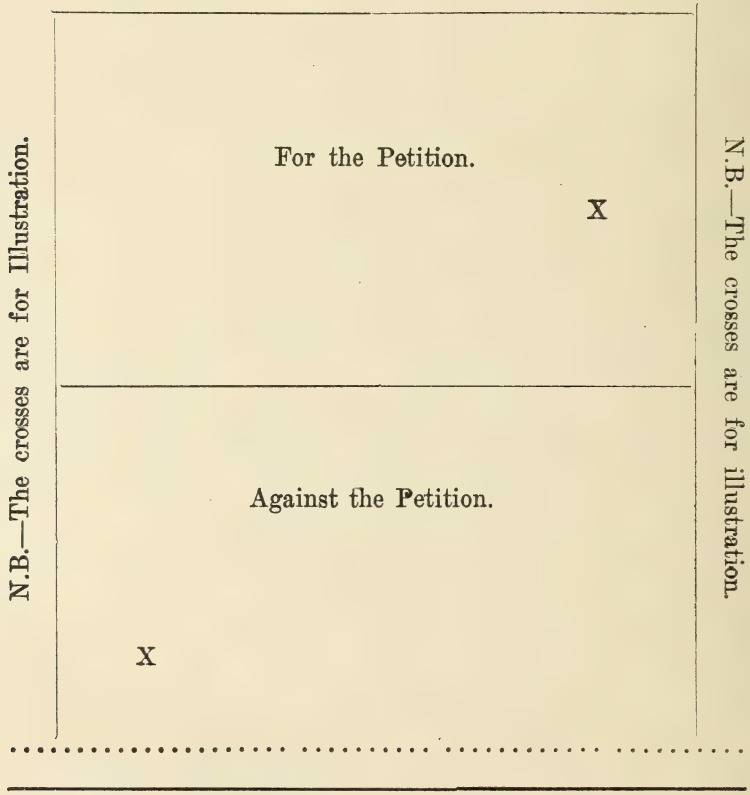
R.S., c. 106, sch. form D.

FORM E.

Form of Ballot Paper.

19 .

Voting on the petition to the Governor General for the bringing into force of Part II. of the Canada Temperance Act.



The dotted line will be a line of perforation for easily detaching the counterfoil. R.S., c. 106, sch. form E.

Form F.

Directions for the Guidance of Electors in Voting.

The voter will go into one of the compartments, and with a pencil there provided, place a cross thus, X, in the upper space if he votes for the adoption of the petition, and in the lower space if he votes against the adoption of the petition.

The voter will then fold the ballot, so as to show a portion of the back only, with the number and the initials of the deputy returning officer, and deliver it to the deputy returning officer, who will place it in the ballot box. The voter will then forthwith quit the polling station.

If a voter inadvertently spoils a ballot paper, he can return it to the proper officer, who, on being satisfied of the fact, will give him another.

If the voter places on the ballot more than one mark, or places any mark on it by which he can afterwards be identified, his vote will be void, and will not be counted.

If the voter takes a ballot paper out of the polling station, or fraudulently puts any other paper into the ballot box than the ballot paper given him by the deputy returning officer, he will be subject to be punished by fine or by imprisonment for a term not exceeding six months, with or without hard labour. R.S., c. 106, sch. form F.

Form G.

Form of Declaration of Agent.

I, the undersigned, E. F., solemnly declare that I am desirous of promoting (*or* opposing) the adoption of a petition to the Governor General for the bringing into force in the said county (*or* city) of Part II. of the Canada Temperance Act.

(*Signature*) A. B.

Made and declared at this day of A.D. 19 , before me,

C. D.,
Returning Officer.

R.S., c. 106, sch. form G.

Form H.

Form of Oath of Secrecy.

I, the undersigned, E. F., agent for the electors of the county (*or* city) of , interested in promoting (*or* opposing) the adoption of a petition to the Governor General for the bringing into force in the said county (*or* city) of Part II. of the Canada Temperance Act, solemnly swear (*or if he be one of the persons permitted by law to affirm in civil cases,* solemnly affirm, promise and declare) that I will keep secret the way in which any of the voters at the polling station in the polling district No. , marks his ballot in my presence, at this polling of votes for or against such petition. So help me God.

(*Signature*) E. F.,

Sworn (*or* affirmed) at this day of , A.D. 19 , before me.

A. B.,

Returning Officer.

or C. D.,

Justice of the Peace.

R.S., c. 106, sch. form H.

Form I.

Form of Voters' List.

Number of the Voters.	Names of the Voters.	Their legal addition.	Their place of residence.	Owners.	Tenants or occupants.	Residence or other qualification.	Objections.	Sworn or affirmed.	Voters refusing to be sworn or affirmed.	Voters voting after others have voted in their names.

NOTE.—*The qualification need not be inserted except where there are no provincial lists of voters.*

R.S., c. 106, sch. form I.

Form J.

Oath of Identity by Voter receiving a Ballot Paper after Another has Voted in his Name.

I solemnly swear (*or, if he be one of the persons permitted by law to affirm in civil cases,* solemnly affirm), that I am A. B. of (*as on the voters' list*) whose name is entered on the voters' list now shown me. So help me God.

R.S., c. 106, sch. form J.

Form K.

Oath of Messenger sent to collect the Ballot Boxes.

I, A. B., of , messenger appointed by C. D., returning officer for the county (*or* city of , in the province

of , do solemnly swear that the several boxes, to the number of now delivered by me to the said returning officer, have been handed to me by the several deputy returning officers at the present polling of votes, in the said county, city, or by (*here insert the names of the deputy returning officers who have delivered the said boxes*), that they have not been opened by me, nor by any other person, and that they are in the same state as they were when they came into my possession. (*If any change has taken place, the deponent shall vary his deposition by fully stating the circumstances*).

(*Signature*) A. B.

Sworn (*or* affirmed) and subscribed before me, at this day of , in the year 19 .

(*Signature*) X. Y.,
Justice of the Peace.
or A. B.,
Returning Officer.
or G. H.,
Deputy Returning Officer.

R.S., c. 106, sch. form K.

FORM L.

Oath of the Deputy Returning Officer after the Closing of the Poll.

I, the undersigned, deputy returning officer for the polling district No. of the county (*or* city) of , do solemnly swear (*or, if he be one of the persons permitted by law to affirm in civil cases*, do solemnly affirm) that to the best of my knowledge and belief, the voters' list kept for the said polling district under my direction, has been so kept correctly, and that the total number of votes polled in the said list is , and that, to the best of my knowledge and belief it contains a true and exact record of the votes given at the polling station in the said polling district as the said votes were taken thereat, that I have faithfully counted the votes given for each interest, in the manner by law provided, and performed all duties required of me by law, and that the report, packets of ballot papers, and other documents required by law to be returned by me, to the returning officer, have been faithfully and truly prepared and placed within the ballot box, as this

oath (*or* affirmation) will be to the end that the said ballot box being first carefully sealed with my seal, may be transmitted to the returning officer according to law.

(*Signature*) G. H.,
Deputy Returning Officer.

Sworn before me at , in the county of , this day of , 19 .

(*Signature*) X. Y.,
Justice of the Peace.
or A.B.,
Returning Officer.

R.S., c. 106, sch. form L.

Form M.

Form of notice and petition for revocation of an order in council passed for bringing Part II. of the Canada Temperance Act into Force.

To the Honourable the Secretary of State of Canada.

Sir,—We, the undersigned electors of the county (*or* city) of request you to take notice that we propose presenting the following petition to His Excellency the Governor General of Canada in Council:—

The petition of the electors of the county (*or* city) of qualified and competent to vote at the election of a member of the House of Commons in the said county (*or* city) respectfully shows that your petitioners are desirous that the order in council passed for bringing into force within the said county (*or* city), Part II. of the Canada Temperance Act, should be revoked, wherefore your petitioners humbly pray that Your Excellency will be pleased by an order in council under section one hundred and fifteen of the Canada Temperance Act, to declare that the said order in council which brought into force and effect Part II. of the said the Canada Temperance Act, in the said county (*or* city) shall no longer be in force.

And that we desire that the votes of the electors of the said county (*or* city) be taken for and against the revocation of the said order in council.

And your petitioners will ever pray, etc.

51 V., c. 35, sch. form O.

FORM N.

Form of Ballot Paper.

19 .

Voting on the petition to the Governor General for the revocation of the order in council which brought into force Part II. of the Canada Temperance Act in the county (*or* city) of

N.B.—The Crosses are for Illustration.

Against the Act (*) X	*For the Act* (**) X

(*These words are to be printed in red ink.)
(**These words are to be printed in black ink.)

(*The dotted line will be a line of perforations for easily detaching the counterfoil.*)

Counterfoil.

51 V., c. 35, form P.

FORM O.

Directions for Guidance of Electors in Voting.

The voter will go into one of the compartments, and with the pencil there provided place a cross thus X in the upper space if he votes against the Act and in the lower space if he votes for the Act.

The voter will then fold the ballot so as to show a portion of the back only with the number and initials of the deputy returning officer and deliver it to the deputy returning officer,

who will place it in the ballot box. The voter will then, forthwith, quit the polling station.

If a voter inadvertently spoils a ballot paper he can return it to the proper officer who, on being satisfied of the fact, will give him another.

If the voter places on the ballot paper more than one mark, or places any marks on it by which he can afterwards be identified, his vote will be void and will not be counted.

If the voter takes a ballot paper out of the polling station, or fraudulently puts any other paper into the ballot box than the ballot paper given him by the deputy returning officer, he will be subject to be punished by fine or by imprisonment for a term not exceeding six months, with or without hard labour. 51 V., c. 35, sch. form Q.

FORM P.

General form of Information.

CANADA,
Province of
District (*or* county), *or as the case may be*) of To wit:

The information of A. B., of the of in the of , collector of Inland Revenue (*or as the case may be*), laid before me, C. D., police magistrate (*or as the case may be*) in and for the city of (*or* one of His Majesty's justices of the peace in and for the of), this day of , in the year of Our Lord one thousand nine hundred and .

The said informant says he is informed and believes that X. Y., or or about the day of , in the year of Our Lord one thousand nine hundred and , at the of , in the of , unlawfully did sell intoxicating liquor contrary to the provisions of Part II. of the Canada Temperance Act then in force in the said county (*or* city, *as the case may be*).

N.B.—*For an information for a second or third offence add the appropriate clauses from forms U and V.*

A .B.

Laid and signed before me, the day and year and at the place first above mentioned.

C. D.,
P. M. or J. P.

Forms for Describing Offences.

2, *Unlawfully keeping intoxicating liquor for sale*:

'That X. Y., on at unlawfully did keep intoxicating liquor for sale, contrary to the provisions of Part II. of the Canada Temperance Act then in force in the said county (*or* city, *as the case may be*).'

3. *Unlawful sale by a distiller or brewer in small quantities*:

'That X. Y., being a licensed distiller (*or* brewer) having his distillery (*or* brewery) within the county (*or city* or as the *case may be*) of , on , at , unlawfully did sell whiskey (*or* other liquor manufactured in his distillery) in a quantity of less than ten gallons (*or* ale or beer in a quantity of less than eight gallons) at one time (*or* unlawfully did sell whiskey to be removed and taken away in quantities of less than ten gallons, *or* unlawfully did sell beer to be removed and taken away in quantities of less than eight gallons), contrary to, etc.,' (*as in 2.*)

4. *Unlawful sale by a vine-growing company in small quantities*:

'That the company, being an incorporated company authorized by law to carry on the business of cultivating and growing vines, and of making and selling wine and other liquors produced from grapes, having their manufactory within the county (*or* city) of , on , at unlawfully did sell intoxicating liquor in a quantity of less than ten gallons at one time (*or* unlawfully did sell intoxicating liquor to be removed and taken away in quantities of less than ten gallons at one time) contrary to, etc.' (*as in 2.*)

5. *Unlawful sale by a manufacturer of native wines*:

'That X. Y., being a manufacturer of pure native wines made from grapes grown and produced by him in the Dominion of Canada, and being duly licensed to sell the same, on , at , unlawfully did sell such wines in a quantity of less than ten gallons (*or* unlawfully did sell such wine for sacramental or medicinal purposes in a quantity of less than one gallon) contrary to, etc.' (*as in 2.*)

6. *Unlawful sale by a wholesale merchant in small quantities*:

'That X. Y., having a license to sell intoxicating liquor by wholesale, on , at , unlawfully did sell intoxicating liquor in a quantity of less than ten gallons (*or* unlawfully did sell intoxicating liquor to be removed and taken away in quantities of less than ten gallons at one time) contrary to, etc.' (*as in 2*).

7. *Physician unlawfully giving certificate*:

'That X. Y., being a legally qualified physician, on , at , unlawfully did give a certificate to obtain intoxicating liquor for other than strictly medicinal purposes, contrary to, etc.' (*as in 2.*)

8. *Tampering with a witness*:

'That X. Y., on a certain prosecution under the Canada Temperance Act, on , at , unlawfully did tamper with O. P., a witness in such prosecution, before (*or* after) he was summoned (*or* appeared) as a witness in such case (*or* by an offer of money, *or* by threat or otherwise) unlawfully did induce (*or* attempt to induce) such witness to absent himself (*or* herself), (*or* to swear falsely) contrary to, etc.' (*as in 2.*)

9. *Compromising or compounding a prosecution*:

'That X. Y.. having violated a provision of the Canada Temperance Act, on , at , unlawfully did compromise (*or* compound *or* settle *or* offer *or* attempt to compromise, compound *or* settle) the offence with E. F., with the view of preventing any complaint being made in respect thereof (*or* with the view of getting rid of, *or* of stopping, *or* of having the complaint made in respect thereof, dismissed) (*as the case may be*) contrary to the provisions of the Canada Temperance Act.'

10. *Being a party to compromise a prosecution*:

'That X. Y., on , at , unlawfully was concerned in (*or* party to)a compromise (*or* a composition *or* a settlement) of an offence committed by O. P., against a provision of the Canada Temperance Act.'

51 V., c. 34, sch. form R.

FORM Q.

Information to obtain a search warrant.

CANADA,
Province of ,
District (*or* county, *or as the case may be*) of

The information of K. L., of , in the said district (*or* county, *or as the case may be*) of , (*yeoman*) taken this day of in the year of Our Lord , before me, W. S., Esquire, one of His Majesty's justices of the peace in and for the said district (*or* county, *or as the case may be*) of

7-8 Edw. VII. c. 71, s. 4.

, who saith that he hath just and reasonable cause to suspect and doth suspect that intoxicating liquor is kept for sale (*or is stored* or *is warehoused or* is kept for delivery) in violation of Part II. of *The Canada Temperance Act,* in the (*dwelling-house, etc.*) of P. Q. of in the said district (*or* county *or as the case may be*) (*here add the cause of suspicion*).

Wherefore he prays that a search warrant may be granted him to search the (*dwelling-house, etc.*) of the said P. Q, as aforesaid for the said intoxicating liquor.

Sworn (*or* affirmed) on the day and year first above mentioned at in the said district (*or* county, *or as the case may be*) of before me.

K.L., (*Signature*), W. S.
A justice of the peace in and for the said .

FORM R.

Form of Search Warrant.

CANADA,
Province of ,
District (*or* county, *or as the case may be*) of

To all or any of the constables or other peace officers in the district (*or* county *or as the case may be*) of .

Whereas K. L., of , in the said district (*or* county, *or as the case may be*) of (*yeoman*) hath this day made oath before the undersigned one of His Majesty's justices of the peace in and for the said district (*or* county, *or as the case may be*) of that he hath just and reasonable cause to suspect and doth suspect that intoxicating liquor is kept for sale (*or* is stored *or* is warehoused *or* is kept for delivery) in violation of Part II. of *The Canada Temperance Act,* in the (*dwelling-house, etc.*) of one P. Q. of in the said district (*or* county, *or as the case may be*) of 7-8 Edw. VII, c. 71, s. 4.

These are therefore, in the name of Our Sovereign Lord the King, to authorize and require you, and each and every of you, with necessary and proper assistance, to enter in the day time into the said (*dwelling-house, etc.*), of the said P. Q., and there diligently search for the said intoxicating liquor; and if the same, or any part thereof, shall be found upon such search, that you bring the intoxicating liquor so found, and also all barrels, cases, boxes, packages, and other receptacles of any kind whatever containing the same before me to be disposed of and dealt with according to law.

Given under my hand and seal at in the said district (*or* county, *or* united counties, *or as the case may be*) of this day of in the year of Our Lord .

(*Seal*) W. S.,
A justice of the peace in and for the said .

FORM S.

Summons to Witness.

CANADA.
Province of
District (*or county, or as case may be*) of To Wit:

To J. K., of the of , in the of

Whereas information has been laid before me, C.D., one of His Majesty's justices of the peace, in and for the of , (*or* police magistrate for the city of), that X. Y., being a druggist, on the of , A.D. 19 , at the of , in the of , unlawfully did sell intoxicating liquor contrary to the provisions of Part II. of the Canada Temperance Act (*or as the case may be*) and

it has been made to appear to me that you are likely to give material evidence on behalf of the prosecution in this matter:

These are to require you, under pain of imprisonment in the common gaol, personally to be and appear on the day of , A.D., 19 , at o'clock in the (fore)noon, at the , in the of , before me or such justice or justices of the peace as may then be there, to testify what you shall know in the premises, and also to bring with you, and there and then to produce all and every invoices, day-books, cash-books, or ledgers and receipts, promissory notes or other security relating to the purchase or sale of liquor by the said X. Y., and all other books and papers, accounts, deeds and other documents in your possession, custody or control, relating to any matter connected with the said prosecution.

Given under my hand and seal, this day of A.D. 19 , at the of in the of .

C. D.,
J. P. (L.S.)

51 V., c. 34, sch. form S.

FORM T.

Form of Conviction for first offence.

CANADA,
Province of
District (*or county, or as the case may be*) of To Wit:

Be it remembered that on the day of , in the year of Our Lord one thousand nine hundred and , at the of , in the of , X. Y., is convicted before me, C. D., police magistrate in and for the city of (*or* before us, E. F., and G. H., two of His Majesty's justices of the peace, in and for the), of having unlawfully sold intoxicating liquor on the day of , in the year of Our Lord one thousand nine hundred and , at the of , in the in his premises, (*or* of having unlawfully kept intoxicating liquor for sale, *or as the case may be*) contrary to the provisions of Part II. of the Canada Temperance Act, then in force in the said , A. B., being the informant; and I (*or* we) adjudge the said X. Y., for his said offence, to forfeit and pay the sum of fifty dollars, to be paid and applied according to law, and also to pay the said A. B., the sum of dollars for his costs in this behalf, and if the said several sums be not

paid forthwith* I (*or* we) order the said sums to be levied by distress and sale of the goods and chattels of the said X. Y., and in default of sufficient distress in that behalf* [*or where the issuing of a distress warrant would be ruinous to the defendant and his family, or it appears that he has no goods whereon to levy a distress, then instead of the words between the asterisks**say*—'inasmuch as it has now been made to appear to me (*or* us) that the issuing of a warrant of distress in this behalf would be ruinous to said X. Y., and his family,' *or* 'that the said X. Y. has no goods or chattels whereon to levy the said several sums by distress,'] I (*or* we) adjudge the said X. Y., to be imprisoned in the common gaol for the of , at in the said , and there to be kept for the space of , unless the said sums and the costs and charges of the commitment and of the conveying of the said X. Y., to the said common gaol, shall be sooner paid.

Given under my hand and seal (*or* our hands and seals) the day and year first above mentioned, at the of in the aforesaid.

C.D., (L.S.)
Police Magistrate.
or E.F., (L.S.)
J.P.
G.H., (L.S.)
J.P.

51 V., c. 34, sch. form T.

FORM U.

Form of Conviction for a second offence.

CANADA,
Province of
District (*or* County, *or as the case may be*) of To Wit:

Be it remembered that on the day of , in the year of Our Lord one thousand nine hundred and , at the of , in the of , X. Y. is convicted before me, C. D., police magistrate in and for the city of (*or* before us, E. F. and G. H., two of His Majesty's justices of the peace, in and for the), of having unlawfully sold intoxicating liquor on the day of . in the year of Our Lord, one thousand nine hundred and , at the of , in the , in his premises, (*or* of having unlawfully kept intoxicating liquor for

sale, *as the case may be*) contrary to the provisions of Part II. of the Canada Temperance Act, then in force in the said , A. B. being the informant, and it appearing to me (*or* us) that the said X. Y. was previously, to wit, on the day of , A.D. 19 , at the of before, etc., duly convicted of having unlawfully sold intoxicating liquor contrary to the provisions of Part II. of the Canada Temperance Act then in force, in the said on the day of , A.D. 19 , at the of : I [*or* we] adjudge the offence of the said X. Y., hereinbefore first mentioned, to be his second offence against the Canada Temperance Act, then in force in the said , and I (*or* we) adjudge the said X. Y., for his second offence, to forfeit and pay the sum of one hundred dollars, to be paid and applied according to law, and also to pay to the said A. B. the sum of dollars for his costs in his behalf; and if the said several sums be not paid forthwith, then* I (*or* we) order the said sums to be levied by distress and sale of the goods and chattels of the said X. Y., and in default of sufficient distress in that behalf,* [*or where the issuing of a distress warrant would be ruinous to the defendant and his family, or it appears that he has no goods whereon to levy a distress, then instead of the words between the asterisks*** say—'inasmuch as it has now been made to appear to me (*or* us) that the issuing of a warrant of distress in this behalf would be ruinous to the said X. Y. and his family,' *or* 'that the said X. Y. has no goods or chattels whereon to levy the said several sums by distress'] I (*or* we) adjudge the said X. Y. to be imprisoned in the common gaol for the of , at in the said , and there to be kept for the space of , unless the said sums and the costs and charges of the commitment and of the conveying of the said X. Y. to the said common gaol, shall be sooner paid.

Given under my hand and seal (*or* our hands and seals) the day and year first above mentioned, at the of in the aforesaid.

C.D., (L.S.)
Police Magistrate.

or E.F., (L.S.)
J.P.

G.H., (L.S.)
J.P.

51 V., c. 34, sch. form U.

Form V.

Form of Conviction for a third offence.

Canada,
Province of
District (*or* County, *or as the case may be*) of To Wit:

Be it remembered that on the day of , in the year of Our Lord one thousand nine hundred and , in the of , in the X. Y. is convicted before the undersigned, C. D., police magistrate in and for the city of , in the said (*or* E. F. and G. H., two of His Majesty's justices of the peace in and for the said), for that he, the said X. Y., on the day of , in the year of Our Lord, one thousand nine hundred and , at the city of (*or* of) in the said (*as the case may be*) of having unlawfully sold intoxicating liquor (*or* of having unlawfully kept intoxicating liquor for sale, *or as the case may be*) contrary to the provisions of Part II. of the Canada Temperance Act, then in force in the said . And it also appearing to me (*or* us) that the said X. Y. was previously, to wit, on the day of , A.D. 19 , at the , of , before, &c., duly convicted of having unlawfully sold intoxicating liquor contrary to the provisions of Part II. of the Canada Temperance Act, then in force in the said , on the day of , A.D. 19 , at the , of . And it also appearing to me (*or* us) that the said X. Y. was previously, to wit, on the day of , A.D. 19 , at the of , before &c., (*see above*) again duly convicted of having unlawfully sold intoxicating liquor contrary to the provisions of Part II. of the Canada Temperance Act, then in force in the said on the day of , A.D. 19 , at the . (*or as the case may be*).

I (*or* we) adjudge the offence of the said X. Y. hereinbefore firstly mentioned, to be his third offence against the Canada Temperance Act, then in force in the said (A, B. being the informant), and I (*or* we) adjudge the said X. Y. for his said third offence to be imprisoned in the common gaol of the said of at , in the said of , there to be kept for the space of calendar months (*or as the case may be*) with (*or* without) hard labour.

Given under my hand and seal (*or* our hands and seals) the day and year above mentioned, at the of in the aforesaid.

C.D., (L.S.)
Police Magistrate.

or E.F., (L.S.)
J.P.,

G. H., (L.S.)
J. P.,

51 V., c. 34, sch. form V.

FORM W.

Warrant of Commitment for first offence where penalty is imposed.

CANADA,
Province of
District (*or* County, *or as the case may be*) of To Wit:

To all or any of the constables and other peace officers in the and to the keeper of the common gaol of the said at , in the of :

Whereas X. Y., late of the of , in the said , was this day convicted before the undersigned, C. D., police magistrate in and for the city of (*or* E. F., and G. H., two of His Majesty's justices of the peace in and for the, of,), (*or* of , *or as the case may be*), for that he, the said X. Y., on at unlawfully did sell intoxicating liquor (*state offence as in the conviction*), contrary to the provisions of Part II. of the Canada Temperance Act, then in force in the said (A. B. being the informant), and it was thereby adjudged that the said X. Y., for the said offence should forfeit and pay the sum of (*as in the conviction*). and should pay the said A. B. the sum of for his costs in that behalf;

And it was thereby ordered that if the said several sums were not paid (forthwith) the same should be levied by distress and sale of the goods and chattels of the said X. Y., and it was thereby also adjudged that the said X. Y., in default

of sufficient distress, should be imprisoned in the common gaol of the said county, at , in the said county of for the space of , unless the said several sums and all costs and charges of the said distress and of the commitment and of the conveying of the said X. Y. to the said common gaol were sooner paid;

And whereas the said X. Y. has not paid the said several sums, or any part thereof, although the time for payment thereof has elapsed;

[*If a distress warrant issued and was returned 'no goods,' or 'not sufficient goods' say*] 'and whereas afterwards on the day of , A.D. 19 , I, the said police magistrate (*or* we, the said justices) issued a warrant to the said constables or peace officers, or any of them, to levy the said several sums of and by distress and sale of the goods and chattels of the said X. Y.;

'And whereas it appears to me (*or* us), as well by the return of the said warrant of distress by the constable who had the execution of the same as otherwise, that the said constable has made diligent search for the goods and chattels of the said X. Y., but that no sufficient distress whereon to levy the said sums could be found;'

[*Or where the issuing of a distress warrant would be ruinous to the defendant and his family, or if it appears that he has no goods whereon to levy a distress then, instead of the foregoing recitals of the issue and return of the distress warrant, etc., say*—

'And whereas it has been made to appear to me (*or* us), that the issuing of a warrant of distress in this behalf would be ruinous to the said X. Y. and his family,' *or* 'that the said X. Y. has no goods or chattels whereon to levy the said sums by distress' *as the case may be;*]

These are therefore to command you, the said constables or peace officers, or any of you, to take the said X. Y., and him safely convey to the common gaol aforesaid at , in the of and there deliver him to the said keeper thereof, together with this precept.

And I (*or* we) do hereby command you the said keeper of the said common gaol to receive the said X. Y. into your custody in the said common gaol, there to imprison him and keep him for the space of unless the said several sums and all the costs and charges of the said distress amounting to the sum of , and of the commitment and of the conveying of the said X. Y. to the said common gaol, shall be sooner paid unto you, the said keeper, and for so doing this shall be your sufficient warrant.

Given under my hand and seal (*or* our hands and seals), this day of , A.D. 19 , at in the said of .

C.D., (L.S.)
Police Magistrate.

or E.F. (L.S.)
J.P.,

G.H., (L.S.)
J.P.,

51 V., c. 34, sch. form W.

FORM X.

Warrant of commitment for third offence, where punishment is by imprisonment only.

CANADA.
Province of
District (*or* County) *or as the case may be* To Wit:

To all or any of the constables or other peace officers in the of , and to the keeper of the common gaol of the said at , in the of

Whereas X. Y., late of the of , in the said was on this day convicted before the undersigned C. D. (*or* E. F. and G. H., &c., *as in preceding form*) for what he the said X. Y., on at (*state offence, with previous convictions, as set forth in the conviction for the third offence, or as the case may be, and then proceed thus*) : ' and it is hereby adjudged that the offence of the said X. Y., hereinbefore firstly mentioned, was his third offence against Part II. of the Canada Temperance Act, then in force in the said , (A. B. being the informant) ; And it was thereby further adjudged that the said X. Y., for his said third offence, should be imprisoned in the common gaol of the said of , at in the said of , and there to be kept at (*or* without) hard labour for the space of calendar months:

These are therefore to command you, the said constables, or any one of you, to take the said X. Y., and him safely convey to the said common gaol at , aforesaid, and there deliver him to the keeper thereof, with this precept. And I (*or* we) do hereby command you, the said keeper of the said common

gaol, to receive the said X. Y. into your custody in the said common gaol, there to imprison him and to keep him at (*or* without) hard labour for the space of calendar months.

Given under my hand and seal (*or* our hands and seals), this day of , A.D. 19 , at , in the said of .

C.D., (L.S.)
Police Magistrate.
or E.F., (L.S.)
J.P.
G.H., (L.S.)
J.P.

51 V., c. 34, sch. form X.

Form Y.

Form of declaration of forfeiture and of order to destroy liquor seized.

If in the conviction, after adjudging penalty or imprisonment proceed thus:

And I (*or* we) declare the said intoxicating liquor and vessels in which the same is kept, to wit, (*two barrels*) containing *beer, three jars* containing *whiskey, two bottles* containing *gin, four kegs* containing *lager beer,* and *five bottles* containing *native wine* (*or as the case may be*), to be forfeited to His Majesty, and I (*or* we) do hereby order and direct that the said liquor and vessels be destroyed by , the constable or peace officer who executed the search warrant under which the same was found or in whose custody the same was placed.

Given under my hand and seal, the day and year first above mentioned, at &c.

If by separate subsequent order,

Canada
Province of
District (*or* County) *or as the case may be*) of To wit:

We, E. F. and G. H., two of His Majesty's justices of the peace for the of (*or C. D.,* police magistrate of the city of ,) having on the day of , one thousand nine hundred and , at the

of in the said duly convicted X. Y. of having unlawfully kept intoxicating liquor for sale, contrary to the provisions of Part II. of the Canada Temperance Act, then in force in the said (*or as the case may be*), do hereby declare the said liquor and the vessels in which the same is kept, to wit—(*describe the same as above*), to be forfeited to His Majesty, and we (*or* I) do hereby order and direct that J. P. W., license inspector of the of the said , do forthwith destroy the said liquor and vessels.

Given under our hands and seals (*or* my hand and seal) this day of , at the of , in the said .

E.F., (L.S.)
J.P.

G.H., (L.S.)
J.P.,

or C.D., (L.S.)
Police Magistrate.

51 V., c. 34, sch. form Y.

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